57-1-108. Interests precluding appointment to or employment by commission.

(a) No person shall be eligible to be appointed as a member of the commission, and no person shall be employed in any capacity by the commission, if such person shall have any interest, financial or otherwise, either direct or indirect, in any distillery, wholesale dealer or retail dealer licensed as such in the state of Tennessee. No family member, including spouse, child or children, father or mother, niece or nephew by blood or marriage, son-in-law or daughter-in-law, shall be employed by any distillery, wholesale dealer or retail dealer, nor shall any family member hold or have issued to them any alcoholic beverage license in the state of Tennessee.

(b) No such person shall have interest of any kind in any building, fixtures, or in the premises occupied by any person, firm or corporation licensed under this chapter.

(c) No such person shall own any stock, nor shall have any interest of any kind, direct or indirect, pecuniary or otherwise, by a loan, mortgage, gift, seeking a loan, or guaranteeing the payment of any loan, in any distillery, wholesale dealer or retail dealer licensed under this chapter.

(d) This section shall not apply to server permits issued under § 57-3-704.

57-1-201. Transfer of provisions relating to intoxicating beverages — Authority to impose fine instead of license suspension or revocation.

(a) The entire provisions, definitions and terms of chapter 3, parts 1, 2 and 4 of this title, § 57-3-304 and the authority contained therein are hereby transferred and shall be vested under the jurisdiction of the alcoholic beverage commission as though all of the provisions of such sections were set out and copied verbatim herein for the purpose of the commission to carry out this chapter.

(b)(1)(A) In any case where the commission is given the power to suspend or revoke any license or permit, it may impose a fine. Fines imposed shall:

(i) Not exceed five hundred dollars ($500) for servers permitted under § 57-4-203(h) and the Alcohol Server Responsibility and Training Act of 1995, compiled in chapter 3, part 7 of this title;

(ii) Not exceed one thousand five hundred dollars ($1,500) for retailers licensed under § 57-3-204; provided, that the commission may impose a fine in excess of one thousand five hundred dollars ($1,500) in accordance with § 57-3-406(d)(3);

(iii) Not exceed one thousand five hundred dollars ($1,500) for permittees authorized to sell alcoholic beverages for consumption on the premises under § 57-4-201; provided, that the commission may impose a fine in excess of one thousand five hundred dollars ($1,500) in accordance with § 57-4-203(b)(1)(C);

(iv) Not exceed two thousand dollars ($2,000) for wholesalers licensed under § 57-3-203; and

(v) Not exceed ten thousand dollars ($10,000) for manufacturers licensed under chapter 2 of this title or § 57-3-202.

(B) For the purpose of imposing fines hereunder, each violation may be treated as a separate offense.

(C) Notwithstanding subdivision (b)(1)(A), no administrative action, including the imposition of a fine, may be brought against a wholesaler for
a violation of § 57-3-301(d) unless, prior to bringing the action, the commissioner of revenue has provided written notice to the wholesaler advising the wholesaler that the tax for a brand of liquor has not been paid by a supplier.

(2) The commission shall deposit collections of any such fine with the state treasurer, for the general funds of the state.

(3) The commission shall promulgate by rule pursuant to the Administrative Procedures Act, compiled in title 4, chapter 5, a schedule setting forth a range of fines for each violation.

(c) Any document a person receives informing the person of having a fine imposed upon such person shall cite each particular rule or statute the person is being charged with violating.

(d) In any case where the commission is authorized to suspend or revoke a license or permit, it may enter into an agreement by order with the licensee or permittee where the licensee or permittee voluntarily surrenders the license or permit. Such surrender shall be deemed a revocation of the license or permit.

57-1-208. Enforcement of § 39-17-417(g). [Repealed effective January 1, 2018.]

In addition to the other duties imposed under this chapter, the commission is authorized to enforce § 39-17-417(g), and for that purpose the officers and agents of the commission shall have the same authority and power as that exercised by the officers and investigators of the Tennessee bureau of investigation. The authority and power to investigate violations of § 39-17-417 shall be limited to Schedule VI controlled substances.

57-2-101. “Intoxicating liquors” and “intoxicating drinks” defined — Fuel alcohol exception.

(a) “Intoxicating liquors” or “intoxicating drinks,” as defined in this chapter, means and includes alcohol, spirits, liquors, wines and every liquid or solid, patented or not, containing alcohol, spirits, liquor or wine, and capable of being consumed by human beings; but nothing in this chapter shall be construed or defined as including or relating to the manufacture of beer as defined in § 57-5-101(b).

(b) This title shall not apply to fuel alcohol as it is defined in § 67-3-1203, and this title shall not apply to ethanol that is produced in a facility whose production process is primarily a wet milling process, sold and transported in bulk lots of five thousand gallons (5,000 gals.) or more and not packaged for retail sale by the holder of a valid alcohol fuels permit or a valid distilled spirits permit:

   (1) For export to another country;

   (2) To a domestic manufacturer, distiller, vintner, or rectifier who is a duly licensed alcohol beverage or liquor manufacturer in this or some other state; or

   (3) To a manufacturer who uses the ethanol to create a product which is incapable of human consumption or contains less than one half of one percent (0.5%) alcohol by volume.

(c) This title shall not apply to the production of products that have received approval from the alcohol and tobacco tax and trade bureau (TTB) as a non-beverage product.
57-3-104. Enforcement and administration by commission — Licensing procedures.

(a) The commission shall have the authority, by and with the consent of the governor, to employ such attorneys, inspectors, agents, officers and clerical assistance as may be necessary for the effective administration and enforcement of this chapter. The compensation of such personnel shall be approved by the governor.

(b) The commission shall enforce and administer this chapter and the rules and regulations made by it.

(c) The commission shall have and exercise the following functions, duties and powers:

(1) Issue all licenses in respect to, or for the manufacture, importation, bottling, keeping, giving away, furnishing, possession, transportation, sale, and delivery of alcoholic beverages, and to revoke any license whatsoever, the issuance of which is authorized by this chapter;

(A) Any revocation of any license shall be made by the commission only on account of the violation of, or refusal to comply with, any of the provisions of this chapter or any rule or regulation of the commission, after not less than ten (10) days' notice to the holder of the license proposed to be revoked, informing such licensee of the time and place of the hearing to be held in respect thereto, and all further procedure with reference to the revocation of any license shall be fixed and prescribed in the rules and regulations adopted and promulgated by the commission, which may be repealed or amended from time to time;

(B) No person has a property right in any license issued hereunder, nor shall the license itself, or the enjoyment thereof, be considered a property right;

(C) The commission shall hold a hearing to determine whether such license shall be revoked, which hearing shall be held with the same notice and in the same manner as all other hearings provided for under this chapter, whenever:

(i) Any county mayor, if a license has been issued outside the corporate limits of the municipality and outside a civil district meeting the requirements set out in § 57-3-205;

(ii) A majority of a three-member commission which has been set up as provided in § 57-3-108, if a license has been issued within a civil district meeting the requirements set out in § 57-3-205; or

(iii) The mayor or majority of the commission, city council or legislative council of a municipality within which a license has been issued certifies that any licensee has habitually violated this chapter, or any regulation adopted by the county legislative bodies, three-member commissions, or legislative councils, relative to the conduct and operation of the business provided for in this chapter;

(2) Refuse to issue a license or permit if, upon investigation, the commission finds that the applicant for a license or permit has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the business or employment, or if the interest of the applicant in the operation of the business or employment is not truly stated in the application, or in case of any fraud or false swearing by the applicant touching any matter relating to the operation of the business or
employment. If a license or permit has been issued, the commission shall issue a citation to the licensee or permittee to show cause why the license or permit should not be suspended or revoked. All data, written statements, affidavits, evidence or other documents submitted in support of an application are a part of the application;

(3) Summon any applicant for a license or permit and also to summon and examine witnesses, and to administer oaths to such applicants and witnesses in making any investigation in regard thereto;

(4) Make, promulgate, alter, amend, or repeal rules and regulations for the enforcement of this chapter or the collections of all license fees and taxes, and all penalties and forfeitures relating thereto, except that the alcoholic beverage tax authorized to be collected by §§ 57-3-302 and 57-3-303 shall be collected by the commissioner of revenue;

(5) Prescribe all forms of application and licenses and tax stamps, and of all reports and all other papers and documents required to be used under or in the enforcement of this chapter, except that the alcoholic beverage tax authorized to be collected by §§ 57-3-302 and 57-3-303 shall be collected by the commissioner of revenue;

(6) Prevent parts of the premises connected with or in any sense used in connection with the premises, whereon the possession, transportation, delivery, receipt, sale or purchase of alcoholic beverages may be lawful, from being used as a subterfuge, or means of evading the provisions of this chapter or the rules and regulations of the commission;

(7) Conform to, adopt, or coordinate, to the extent that the commission may deem proper, the practices, methods, standards, rules, and regulations governing traffic in alcoholic beverages, and in alcohol, with the rules, practices, standards, and regulations established by the government of the United States, or any officer, bureau or agency thereof;

(8) Require, on licensed premises, the destruction or removal of any and all bottles, whether empty or otherwise, cases, containers, apparatus, or devices, used or likely to be used, designed or intended or employed in evading, violating or preventing the enforcement of this chapter or the rules and regulations of the commission;

(9) Regulate the advertising, signs and displays, posters or designs intended to advertise any alcoholic beverage or the place where the same is sold; and

(10) Refuse to issue or renew a license or permit, or issue a citation in an amount not to exceed one hundred dollars ($100) per violation if, upon investigation, the commission finds that the applicant for a license or permit has not demonstrated the financial capacity to operate the business in a manner consistent with the regulations of the commission or is not generally paying its debts as they come due except for debts as to which there is a bona fide dispute.

57-3-202. Manufacturer’s or distiller’s licenses — Qualifications of applicants — Fees — Permits to solicit orders — Penalty — Rules and regulations.

(a) A manufacturer’s or distiller’s license may be issued, as hereinafter provided, for the manufacturing of alcoholic spirituous beverages or vintage alcoholic beverages. Any person, firm, or corporation desiring to manufacture
for commercial purposes any alcoholic spirituous beverages or vintage alco-
holic beverages shall make application to the commission for a license to
manufacture the same, which application shall be in writing and verified, on
the forms herein authorized, to be prescribed and furnished; and, thereupon,
the commission may grant such license, subject to this chapter.

(b) All applicants if individuals must be citizens of the United States, and all
stockholders of any corporate licensee must likewise be citizens of the United
States.

(c) Such license shall not be issued unless and until there be paid to the
commission a separate license fee of one thousand dollars ($1,000).

(d) Before an individual owner, officer, employee, or representative of any
manufacturer, rectifier, or importer may solicit orders from a licensed whole-
saler in this state, such individual owner, officer, employee, or representative
shall be the holder of a permit issued by the commission. The fee for such
permit shall be fifty dollars ($50.00). Such permit shall authorize the holder to
solicit orders upon the premises of a licensed wholesaler. A representative may
sell the products of, or represent more than one (1) manufacturer, rectifier, or
importer and such affiliates or subsidiaries that the manufacturer, rectifier, or
importer may control by means of ownership or the ownership of a controlling
stock interest.

(e) “Vintage alcoholic beverages,” as used in this section, means all wine sold
by wholesalers licensed under § 57-3-203.

(f)(1) A manufacturer’s license may be issued to a person, firm or corporation
for the limited purpose of blending nonalcoholic products with alcoholic
beverages on premises, either on its own behalf or on behalf of other entities
pursuant to contract.

(2) A licensee under this subsection (f) may obtain the alcoholic beverages
for use in its blending operations from any entity holding a license or permit
issued under this section, §§ 57-2-104, 57-3-203, and part 6 of this chapter.

(3) A license may be issued to a manufacturer, under this subsection (f),
notwithstanding the requirements of § 57-3-106.

(4) A manufacturer, licensed under this subsection (f) for the limited
purpose of blending, may sell, distribute or transport the product produced
from its blending operations in accordance with this title.

(g) Notwithstanding subsection (f), an establishment licensed to sell alco-
holic beverages for on-premises consumption pursuant to chapter 4, part 1 of
this title, may, without a manufacturer’s license, produce, store and sell
infused products pursuant to § 57-4-108.

(h) The commission is empowered to make such regulations, investigations
and audits as it may deem necessary for enforcing and preventing violations of
this chapter.

(i)(1) A manufacturer’s license issued or renewed under this section to a
manufacturer shall also allow such manufacturer to sell at retail on the
licensed premises of the manufacturer products that are manufactured on
the manufacturer’s premises; provided, that no more than five gallons (5
gal.) or one-sixth (⅙) of a barrel of its products may be sold to any one (1)
individual per visit to the premises. The manufacturer may serve samples of
the product manufactured or distilled at the premises to any person of legal
drinking age with or without cost or may include such samples as part of a
tour of the manufacturer’s or distiller’s premises available to the public with
or without cost. Such samples may be made available at any location on the
manufacturing premises permitted by federal law. The manufacturer shall disclose to the commission the location where samples are available. The hours of sale for the manufacturer to sell products at retail shall be between the hours of eight o'clock a.m. (8:00 a.m.) and eleven o'clock p.m. (11:00 p.m.) on Monday through Saturday and between the hours of twelve o'clock (12:00) noon and seven o'clock p.m. (7:00 p.m.) on Sunday.

(2) A manufacturer electing to exercise the rights granted to it under subdivision (i)(1), may only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302, 57-3-501 (which shall be collected from the manufacturer based upon its retail sales), and 57-6-201. For products acquired from a wholesaler by a manufacturer under this section, the wholesaler may permit the manufacturer to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections.

(3) Notwithstanding any law to the contrary, any manufacturer selling at retail with the license authorized by this subsection (i) shall pay a municipal inspection fee, described in § 57-3-501, if a municipality the manufacturer is located in imposes such inspection fee which shall then be remitted by the wholesaler as described in subdivision (i)(2).

(4)(A) A distiller's license issued or renewed under this section authorizes a distillery to sell to any person of legal drinking age alcoholic beverages for consumption on the premises of the distillery, other than the bonded premises, where such consumption is also permitted by federal law. Distilled spirits sold under this subdivision (i)(4) must be manufactured on the premises of the distillery.

(B) As used in subdivision (i)(4)(A), “premises,” for purposes of consumption on the premises:

(i) Means any and all of the real property owned or leased by a distillery upon which the distillery is operated, including any real property owned by the distillery contiguous thereto; and

(ii) Does not mean the bonded premises of a distillery.

(j)(1) Any nonprofit association organized to encourage and support the manufacture of alcoholic beverages with three (3) or more manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) as members shall be allowed to hold not more than fifteen (15) alcoholic beverage festivals per calendar year. Each festival shall not exceed a period of seventy-two (72) hours.

(2) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport, serve and offer complimentary samples of any alcoholic beverage lawfully manufactured by the manufacturer or on behalf of the non-manufacturer non-resident seller pursuant to § 57-3-602(c) for tasting at the festival.

(3) Any manufacturer licensed under this section or non-manufacturer non-resident seller licensed under § 57-3-602(c) participating in a festival authorized by this subsection (j) shall be allowed to transport alcoholic beverages produced by that manufacturer or on behalf of that non-manufacturer non-resident seller to sell at the festival for consumption
off-premises.

(4)(A) Any nonprofit association authorized by this subsection (j) to hold an alcoholic beverage festival shall apply for a special occasion license as defined in § 57-4-102, in order for participating manufacturers licensed under this section or non-manufacturer non-resident sellers licensed under § 57-3-602(c) to serve complimentary samples as described in subdivision (j)(2) and to sell alcoholic beverages produced by the manufacturers or on behalf of the non-manufacturer non-resident sellers for consumption off-premises.

(B) Notwithstanding § 57-4-102(32)(A), a special occasion license issued for an alcoholic beverage festival authorized by this subsection (j) shall be for the duration of the festival for which application is made for a period not to exceed seventy-two (72) hours. A special occasion license issued pursuant to this subsection (j) shall only be available upon the payment of the fee as required by law for each separate day of the festival.

(C) A nonprofit association authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (j)(5).

(5) A nonprofit association, as defined in subdivision (j)(1), is authorized to conduct an alcoholic beverage festival pursuant to this subsection (j) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed manufacturer located in that municipality or county, subject to complying with all permit requirements of the municipality or county, and in all other municipalities or counties upon receiving approval of the legislative body of the municipality or county to hold such festival at a location and in such manner authorized by such legislative body.

(k)(1)(A) Any manufacturer licensed under this section shall be permitted to use items related to or incidental to the tasting of alcoholic beverages manufactured on the premises and such items may be mixed with such alcoholic beverages anywhere on or off the manufacturer's premises where tastings are permitted as well as at private events and events requiring a special occasion license. Such items may include, but are not limited to:

(i) Bitters, whether manufactured on the premises or purchased at retail, used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;

(ii) Any and all garnishes and food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages, including any juices, concentrates, and other ingredients used in the preparation of mixed alcoholic beverages;

(iii) Glassware and any other cups, glasses, or other containers normally used for serving drinks;

(iv) Ice, water, soft drinks, and any other non-alcoholic beverages; and

(v) Other alcoholic beverages manufactured on the premises.

(B) Tastings under subsection (i) shall be limited to one half ounce (½ oz.) of alcohol per stock keeping unit (sku) per tasting;

(2) Any manufacturer licensed under this section shall be permitted to rent or lease out any portion of their premises for any event, with or without charge, whether the event is public, private, requires a special occasion license as defined in § 57-4-102, or catered by a caterer licensed pursuant to
chapter 4, part 1 of this title. Events cannot be held on the bonded premises or general premises of the manufacturer, as defined in 27 CFR part 19, unless the manufacturer has obtained prior approval from the alcohol and tobacco tax and trade bureau (TTB) for such events pursuant to federal regulations.

(3) Owners, officers, employees, and representatives of any manufacturer licensed under this section shall be permitted to touch, handle, and pour product of such manufacturer at any and all tastings permitted by law, including, but not limited to, consumer education seminars, employee education seminars, retail sales demonstrations, consumer tastings, private events, events requiring a special occasion license as defined in § 57-4-102, and any and all tastings permitted under this chapter, and any rules or regulations promulgated.

(4) In the event of a conflict between any other law in this title and this subsection (k), this subsection (k) shall govern.

57-3-203. Wholesaler’s licenses — Qualifications of applicants — Permits — Salespersons — Employees — Fees — Disposition of alcoholic beverages after nonlicensed persons secure title.

(a) Any person, or general or limited partnership desiring to sell at wholesale any alcoholic spirituous beverage shall make application to the commission for a license so to do, which application shall be in writing and verified, on the forms herein authorized to be prescribed and furnished; thereupon the commission may grant such license subject to the restrictions of this chapter.

(b)(1) Each applicant for a wholesale license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. Such wholesaler’s license, however, shall not be issued unless and until there shall be paid to the commission a separate license fee therefor of three thousand dollars ($3,000), and no license shall be issued except to individuals who are citizens of the state of Tennessee and either have been for at least the two (2) years next preceding citizens of the state of Tennessee or have been citizens of the state of Tennessee at any time for at least fifteen (15) consecutive years.

(2) Notwithstanding any law to the contrary, it shall be lawful for any qualified applicant, including a corporation meeting the requirements of subsection (f), to receive and operate under both an alcoholic beverage wholesaler’s license issued pursuant to this part, and a beer wholesaler’s license issued pursuant to § 57-5-102, upon satisfying all federal, state and local registration and permitting requirements applicable to both operations. Nothing in this title is intended or shall be construed to prohibit a wholesaler licensed under this part or under chapter 5 of this title from holding more than one (1) license or permit for the wholesale of alcoholic beverages or beer in this state.

(c) No wholesale alcoholic spirituous beverage license shall be issued until the applicant has secured a basic permit to engage in the wholesale liquor business from the federal government.

(d)(1) Each representative or salesperson of any wholesale licensee in this state must obtain a permit from the commission before soliciting orders from retail licensees. No other person shall be allowed to solicit orders for alcoholic beverages from retail licensees, and retail licensees shall not give
an order to anyone other than the holder of a wholesale salesperson’s permit.

(2) Where a wholesaler licensed under this part also maintains a beer
wholesale operation as provided in subdivision (b)(2), it shall be lawful for
anyone holding a permit pursuant to this subsection (d) to carry out similar
duties with respect to such beer wholesale operation; provided, that the
permit holder has also satisfied any legal requirements applicable to such
function within a beer wholesale operation.

(e)(1) Every wholesale licensee shall, before employing any person to
dispense alcoholic beverages, secure from the commission an employee’s
permit authorizing such person to serve as an employee in the place of
business of such wholesaler. It is made the duty of the wholesaler to see that
each person dispensing alcoholic beverages in the wholesaler’s place of
business has an employee’s permit as above required, which permit must be
on the person of such employee or upon the premises of the licensee at all
times, subject to inspection by the commission or its duly authorized agent.
Nothing in this subdivision (e)(1) requires an employee of a wholesaler to
obtain a permit unless the employee is directly involved with the delivery or
sale of alcoholic beverages. Employees involved only in warehousing, admin-
istrative, or clerical services for a wholesaler are not required to obtain a
permit under this subdivision (e)(1).

(2) Where a wholesaler licensed under this part also maintains a beer
wholesale operation as provided in subdivision (b)(2), it shall be lawful for
anyone holding a permit pursuant to this subsection (e) to carry out similar
duties with respect to such beer wholesale operation; provided, that the
permit holder has also satisfied any legal requirements applicable to such
function within a beer wholesale operation.

(f)(1) A wholesaler’s license may, in the discretion of the commission, be
issued to a corporation; provided, that no license shall be issued to any
corporation unless such corporation meets the following requirements:

(A) All of its capital stock must be owned by individuals who have been
residents of Tennessee for not less than five (5) years next preceding or
who at any time have been residents of the state of Tennessee for at least
fifteen (15) consecutive years, and who have not been convicted within a
period of five (5) years preceding acquisition of such stock for violation of
either state or United States prohibition laws or revenue laws relating to
intoxicating liquors;

(B) No person owning stock in such corporation shall have any interest
as partner or otherwise in a business licensed to engage in the retail sale
of intoxicating liquors in Tennessee;

(C) No stock of any corporation licensed under this subsection (f) shall
be transferred to any person who has not been a resident of Tennessee for
at least five (5) years next preceding or who at any time has not been a
resident of Tennessee for at least fifteen (15) consecutive years.

(2) The commission is hereby authorized to revoke the wholesale license
of any corporation which fails to comply with this subsection (f).

(g) Notwithstanding subsection (f), the commission, in its discretion, may
issue a wholesale license to any corporation which has been domiciled in this
state for twenty-five (25) years, or which has acquired substantially all of the
assets of a Tennessee partnership (or limited liability company) which part-
nership (or limited liability company) has been continuously operating in this
state for ten (10) years where such corporation has the majority of its assets
located in this state and all of whose officers in actual control of the wholesale operations shall be actively present at the licensed premises and who are in actual charge of the operations of the wholesaler substantially full-time. If any officers of such corporation have been convicted of any violation of the criminal code or of any violation relating to the enforcement of the liquor laws, no license under this subsection (g) shall issue.

(h) If at any time subsequent to the granting of a wholesale liquor license to any such corporation, the majority of its assets shall cease to remain and be located in the state of Tennessee, and if any of its active officers shall cease to be residents of Tennessee, then the commission, within its discretion, shall have the right to revoke such license. The commission is further granted the right to make investigations at any time to ascertain if the majority of the assets of such corporation are located within the state of Tennessee and whether all of its active officers are residents of Tennessee, as above set out, and should its findings be in the negative, it may revoke such license. The foregoing shall apply irrespective of the provisions contained in § 57-3-404(d).

(i)(1) No license entitling the holder thereof to sell or deal in alcoholic spirituous beverages at wholesale shall be granted except in respect to premises situated within either a county having a population in excess of one hundred twenty thousand (120,000), according to the 2010 federal census or any subsequent federal census, or a county in which the voters of any municipality or other jurisdiction within that county have approved retail package sales or consumption of alcoholic beverages on premises by referendum as provided in this title.

(2) Notwithstanding the requirement imposed in subdivision (i)(1), a wholesale liquor license, limited to the sale and distribution of wine only, not to exceed six thousand (6,000) cases of wine per year, may be issued to an entity that is located in any municipality which:

(A) Has authorized the sale of alcoholic beverages for consumption on the premises pursuant to § 57-4-103;

(B) Has a bond rating of AAA issued by a nationally recognized bond rating agency; and

(C) Is located within a county which has a bond rating of AAA issued by a nationally recognized bond rating agency.

(j) When a person not licensed under this chapter secures title to any alcoholic beverage owned by a wholesaler as a result of a default on loans or revocation of license, the manufacturer, rectifier, distiller or vintner who sold the alcoholic beverage to the wholesaler shall purchase the alcoholic beverage from the nonlicensed person who secured title in order that the creditors are satisfied. Any manufacturer, rectifier, distiller or vintner who fails within thirty (30) days following default or revocation of license of the wholesaler to effect the purchase from the nonlicensed person who secured title shall not be allowed to ship or sell any alcoholic beverage in this state until the purchase is effected.

57-3-207. Grape and Wine Law.

(a) This section shall be known and may be cited as the “Grape and Wine Law.” This section shall prevail over any conflicting statutory provision.

(b) A winery license may be issued as provided in this section for the manufacture of alcoholic vinous beverages, as defined in § 57-3-101, upon a
verified, written application to the commission on the proper form authorized
to be prescribed and furnished in this section, and the application may be
granted by the commission, subject to the restrictions of this chapter. Any
winery license issued pursuant to this section shall authorize the holder of the
license to manufacture, but not rectify, alcoholic vinous beverages, unless the
holder of the license is also a distiller or rectifier, or both, holding a license to
distill or rectify, or both, alcoholic spirituous beverages, and the winery license
shall authorize the holder of the license to place the alcoholic vinous beverages
in containers or bottles. Out-of-state wineries may apply for and obtain a
winery license issued in accordance with this section.

(c) Each applicant for a winery license issued pursuant to this section shall
pay to the commission a one-time, nonrefundable fee in the amount of three
hundred dollars ($300) when the application is submitted for review. The
license shall not be issued until a license fee of one hundred and fifty dollars
($150) is paid to the commission by the winery, but issuance of the license is
exempt from the requirements of § 57-3-106. The commission shall deposit
collections with the state treasurer to be earmarked for and allocated to the
commission for the purpose of the administration and enforcement of the
duties, powers and functions of the commission.

(d) No winery license shall be issued except to persons who have not been
convicted, and whose officers and principals have not been convicted, within a
period of five (5) years preceding application of any felony or any violation of
any state or federal laws relating to alcoholic beverages.

(e) Notwithstanding this section, a private individual in that person’s own
home may manufacture wine in an amount not in excess of that amount
annually permitted as of March 22, 1973, by federal statute and regulations
relative to household manufacture and consumption; provided, that the wine is
for personal consumption by members of that person’s household.

(f)(1) A winery licensed under this section may, to the extent permitted
under federal law, serve wine, with or without charge, as samples for tasting
on the premises at the winery and may sell wine at retail in sealed
containers at the winery.

(2) A winery licensed under this section may donate wine without charge
to nonprofit religious, educational or charitable institutions or associations.

(3) For purposes of this section, “premises” means any and all of the real
property owned or leased by the winery.

(g) A winery licensed under this section may exchange wine in bulk with
other wineries and the bulk exchange, whether in return for wine or other
consideration, shall not be considered a sale subject to tax.

(h)(1) In addition to its own wine, a winery or farm winery permit holder is
authorized to sell at retail items related to or incidental to the use,
consumption, dispensing, or storage of wine on the licensed premises. Such
items may include, but are not limited to:

(A) Juices or concentrates derived from juices, or any agricultural
products;

(B) Items used in home winemaking;

(C) Gift or tourism related items including baskets or gift cards;

(D) Utensils and supplies related or incidental to the use, consumption,
dispensing or storage of wine, including, without limitation, wine glasses,
corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine
racks, wine refrigerators, wine cellars, pouring aids, coasters, bottle
stoppers, decanters, carafes, glassware, ice crushers, bottle openers, can openers, and devices to maximize oxidation in uncorked wine bottles and other items used in connection with the consumption, storage, or dispensing of wine;

(E) Fruit, cheese, appetizers, chips, pretzels, and other snack foods or food items served to pair with wine;

(F) Nonalcoholic beverages;

(G) Ice, beverage coolers, and ice chests;

(H) Articles of clothing, accessories, and souvenir items imprinted with advertising, logos, slogans, trademarks, or messages related to wine or the winery’s name;

(I) Smoking or tobacco related products; and

(J) Wine literature, cookbooks, or periodicals.

(2)(A) A winery or farm winery permit holder is not authorized to sell at retail:

(i) Distilled spirits;

(ii) Except as otherwise provided in subsection (v), wine that is not manufactured or bottled on the licensed premises, or in the case of a farm winery permit holder, wine that was not made pursuant to subsection (o); or

(iii) Beer.

(B) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a license pursuant to § 57-4-101, as authorized by subsection (s), and engaging in the activities permitted under such license.

(C) Nothing in this subsection (h) shall prohibit a winery or farm winery permit holder from holding a beer license for on-premises consumption and engaging in the activities permitted under such license.

(3)(A) A winery licensed under this section that satisfies the requirements of subdivision (h)(3)(B) may sell alcoholic beverages on the premises of the winery if the label of the alcoholic beverage product sold contains the name of the winery or is so intrinsically related to the property upon which the winery is located as to be identified as a product of or created for the winery.

(B) A winery exercising the rights conferred by subdivision (h)(3)(A) must satisfy the following requirements:

(i) The winery is located on a tract or tracts of land having at least twenty-four (24) contiguous acres;

(ii) The winery is located on property adjacent to a federal highway;

(iii) The winery is located on property with a commercial railroad track not more than two hundred fifty feet (250') from the nearest property line;

(iv) The winery is located on property with a structure that was originally constructed prior to 1860 as a private residence;

(v) The winery is located on property that is leased or owned by a not-for-profit corporation exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code; and

(vi) The winery is located on property located within the jurisdictional limits of a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(i) A winery licensed under this section located in this state may sell no more
than five (5) cases or sixty (60) liters of wine to any single retail customer in one (1) day. It shall be legal for any purchaser of wine from a winery licensed under this section to transport into and within this state no more than five (5) cases or sixty (60) liters of wine in one (1) day. Any wine transported pursuant to this section must be accompanied by a bill of sale sufficiently identifying the nature, quantity, purchaser, date and place of purchase of the wine. Bills of sale purchased from out-of-state wineries licensed under this section must reflect that the wine was purchased for transport into this state and that Tennessee taxes have been paid. Any person transporting such wine in excess of five gallons (5 gals.) shall have with the shipment a receipt or other documentation demonstrating that the wine was purchased from a winery as licensed in this section.

(j) Any licensee or other person who sells, furnishes, disposes of, gives or causes to be sold, furnished, disposed of or given, any wine in this state or for transport into this state, to any person under the age of majority as established by § 57-4-203(b), commits a Class A misdemeanor.

(k) The commission is empowered and authorized to promulgate such rules and regulations as may be necessary to carry out the duties of the commission as provided in this section, including, but not limited to, procedures governing the production, sale and transportation of wine. The commissioner of revenue shall establish procedures governing the keeping of records for tax purposes and the payment of taxes by a winery licensed under this section; and for any failure to comply with the procedures, the commissioner shall notify the commission, which is authorized to revoke or suspend the license of any winery.

(l) It is the duty of the commissioner of agriculture to disseminate the best information available as to the methods of cultivation of crops that may be utilized in Tennessee for the production of wine and the methods of making such wines. It is also the duty of the commissioner to establish reasonable procedures requiring proper sanitary conditions about the winery and to certify that these conditions have been met before the commission issues any license. The commissioner shall establish reasonable procedures requiring the process of producing wine to be carried on under proper sanitary conditions and in a sanitary manner; and for any failure to comply with the procedures, the commissioner shall notify the commission, which is authorized to revoke or suspend the license of any winery.

(m)(1) Any nonprofit association organized to encourage and support grape growing and winemaking with ten (10) or more wineries licensed under this section as members shall be allowed to hold not more than twelve (12) wine festivals per calendar year. Each festival shall not exceed a period of seventy-two (72) hours.

(2) Any winery licensed under this section participating in a festival authorized by this subsection (m) shall be allowed to transport, serve and offer complimentary samples of their wines for tasting at the festival. The complimentary sample size shall be restricted to a one ounce (1 oz.) serving with only one (1) sample per person for each type of wine.

(3) Any winery licensed under this section participating in a festival authorized by this subsection (m) shall be allowed to transport wine produced by that winery to sell at the festival for consumption off-premises.

(4)(A) Any nonprofit association authorized by this subsection (m) to hold a wine festival shall apply for a special occasion license as defined in
§ 57-4-102, in order for participating wineries licensed under this section to serve complimentary samples as described in subdivision (m)(2) and to sell wine produced by the wineries for consumption off-premises.

(B) Notwithstanding § 57-4-102(32)(A), a special occasion license issued for a wine festival authorized by this subsection (m) shall be for the duration of the festival for which application is made for a period not to exceed seventy-two (72) hours. A special occasion license issued pursuant to this subsection (m) shall only be available upon the payment of the fee as required by law for each separate day of the festival.

(C) A nonprofit association authorized to conduct a wine festival pursuant to this subsection (m) shall be permitted to hold the festival in any municipality or county of the state in the manner provided in subdivision (m)(5).

(5) A nonprofit association, as defined in subdivision (m)(1), is authorized to conduct a wine festival pursuant to this subsection (m) in a municipality or county of this state that has approved the sale of alcoholic beverages or has a licensed winery located in that municipality or county, subject to complying with all permit requirements of the municipality or county, and in all other municipalities or counties upon receiving approval of the legislative body of the municipality or county to hold such a festival at a location and in such manner authorized by such legislative body.

(n) If any provision of this section or application of this section to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to that end the provisions of this section are declared to be severable.

(o)(1) As used in this subsection (o):

(A) “Farm” means a farming operation located in Tennessee consisting of commercial vineyards, fruit orchards or fruit gardens or any combination of such farming operations;

(B) “Farm wine producer” means a farm which produces its own locally grown product from a vineyard, fruit orchard or fruit garden or any combination of such farming operations to be used in the making of wine; and

(C) “Wine” means an alcoholic beverage containing a minimum of ninety-five percent (95%) of the product of vineyards, fruit orchards or fruit gardens grown and harvested at a farm as the wine being sold by the farm wine producer.

(2) A farm wine permit may be issued as provided in this subsection (o) to a farm wine producer, upon verified, written application to the commission on the proper form authorized to be prescribed and furnished by the commission, and the application may be granted by the commission, subject to the further restrictions of this chapter, other than § 57-3-106.

(3) Each applicant for a farm wine permit shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. The permit shall not be issued until a permit fee of one hundred and fifty dollars ($150) is paid to the commission by the farm wine producer, but issuance of the permit is exempt from the requirements of § 57-3-106. The commission shall deposit collections with the state treasurer to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the
duties, powers and functions of the commission.

(4) The holder of a farm wine permit may:

(A) Transport or have transported produce grown on the farm to a
winery licensed pursuant to subsection (b), for the manufacture, bottling
and labeling of unfortified wine from such produce;

(B) Receive such wine back from the winery manufacturing, bottling
and labeling the wine for the farm wine producer;

(C) Offer on the premises of the farm single servings of its wine, with or
without charge, as tastings for each wine sample; and

(D) Sell at retail on the premises of the farm sealed containers of wine
made from the produce of its vineyard, orchard or fruit garden in a
designated building or area.

(5) [Deleted by 2014 amendment, effective May 24, 2014.]

(6) Subsections (d), (h), (i), (j), (m), (n), and (q) which apply to wineries
shall also apply to farm wine permittees.

(p)(1) A winery licensed under this section is authorized to receive produce
from a farm wine producer grown on the farm for the purpose of manufac-
turing, bottling and labeling of wine for such producer. The wine label shall
indicate the name of the farm where the fruit was grown and harvested and
the name of the winery manufacturing, bottling and labeling such wine.

(2) Such winery shall be responsible for the payment of the state gallon-
age tax imposed pursuant to § 57-3-302 and the federal alcoholic beverage
excise taxes due and owing on the wine bottled by the winery prior to the
bottled wine leaving the winery’s bonded premises.

(3) The winery is authorized to transport the wine from the winery back
to the farm wine permit holder, notwithstanding § 57-3-107(b) or any other
law to the contrary. It is lawful for common carriers to transport from the
winery which manufactured, bottled and labeled such wine to the farm
permit holder pursuant to an agreement or contract with a licensed winery.

(q)(1) A winery licensed under this section that has a total annual wine
production of fifty thousand gallons (50,000 gals.) or less shall be authorized
to obtain an additional self-distribution permit from the commission subject
to the obligations imposed in this subsection (q).

(2) No self-distribution permit shall be issued to or held by a winery that
has registered a distribution contract with a wholesaler licensed pursuant to
§ 57-3-203, if the terms of that contract include distribution rights for a
county that is located, in whole or in part, within one hundred (100) miles of
the licensed winery where the wine being distributed has been manufac-
tured, produced, or bottled. Any winery holding a self-distribution permit
that registers such a distribution contract with a wholesaler or whose total
output in a calendar year exceeds fifty thousand gallons (50,000 gals.) shall
cease self-distributing its wine under subdivision (q)(3) and shall promptly
surrender the winery’s self-distribution permit.

(3) A winery seeking a self-distribution permit under this subsection (q)
may distribute not more than three thousand (3,000) cases of wine manu-
factured, produced, or bottled on the winery’s premises to any licensee
holding a license issued pursuant to chapter 4, part 1 of this title, located
within one hundred (100) miles of the winery’s premises where such wine
has been manufactured, produced, or bottled.

(4) A winery engaged in self-distribution under this section shall be
responsible for all taxes and records which are imposed upon a wholesaler
under § 57-3-203 which result from any direct sales under this subsection
(q).

(5) The commission shall impose no additional fee or charge for the issuance of a self-distribution permit under this section.

(r)(1) For purposes of this subsection (r), “satellite facility” means any facility or location other than the primary business location of a winery or farm wine producer.

(2) Any winery or any farm wine producer licensed by this section may conduct business at any two (2) satellite facilities in any jurisdiction where it is lawful to manufacture intoxicating liquors or intoxicating drinks pursuant to § 57-2-103(c) and (d). At its satellite facilities, the winery may conduct any business that is authorized at the licensed winery, except for the manufacturing and bottling of wine. At its satellite facilities, a farm wine producer may conduct any business that is authorized at the premises of the farm wine producer.

(3)(A) Any winery licensed by this section or any farm wine producer shall obtain a satellite permit for each satellite facility utilized by the winery or farm wine producer from the commission in order to:

(i) Serve samples with or without charge;

(ii) Sell wine for consumption on or off the permitted premises; and

(iii) Sell any other products under subsections (h) and (o).

(B) In addition to the permit authorized in subdivision (r)(3)(A), any winery licensed under this section that has a total annual wine production of fifty thousand gallons (50,000 gals.) or less or any farm wine producer licensed under this section may qualify for a satellite permit to authorize no more than three (3) such wineries, farm wine producers, or any combination thereof, to conduct business at one (1) satellite facility.

(C) Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery producer that participates in a satellite facility.

(D) Any winery or farm winery producer, seeking to establish or operate a satellite facility shall disclose to the commission each winery or farm winery producer participating in the satellite facility. Any participant in a satellite facility shall provide any information requested by the commission prior to participating in the satellite facility.

(4) A satellite permit issued to a winery or farm wine producer pursuant to this subsection (r) shall only be available upon the payment of a one-time application fee to the commission of three hundred dollars ($300) per satellite location and upon the payment of an annual license fee of one hundred fifty dollars ($150).

(5)(A) Any winery or farm wine producer licensed under this section that has obtained a satellite permit and elects to charge consumers for samples may only sell such samples that are manufactured by the winery or farm wine producer. Any wine provided at the satellite facility for sales, whether for tastings, for consumption on the premises, and for consumption off the premises, shall be obtained from a wholesaler licensed pursuant to § 57-3-203.

(B) A wholesaler of the winery or farm wine producer’s products may permit a winery or farm wine producer to deliver for sale products which are sold on the premises of the winery, the farm wine producer, or the satellite facility; provided, that the wholesaler permitting such direct shipment shall include the amounts delivered in its inventory, report depletions for purposes of tax collection, and be responsible for the
payment of taxes of such depletions.

(s)(1) Any winery or farm wine producer licensed pursuant to this section may qualify for and hold a license under chapter 4 of this title as a restaurant or limited service restaurant; provided, that notwithstanding chapter 4 of this title related to restrictions or prohibitions on licensees under chapter 4 of this title, a restaurant or limited service restaurant may sell for off-premises consumption, wine manufactured pursuant to this section at such location or at any other restaurant or limited service restaurant licensed under chapter 4 of this title that is owned by the same person.

(2) Notwithstanding any law, rule, or regulation to the contrary, any winery or farm wine producer licensed under this section may serve wine manufactured by the winery or the farm wine producer for consumption on the premises of the winery or farm wine producer.

(t)(1) Except as provided in subdivision (t)(2), any sale of wine authorized by this section for consumption on the premises at the winery or on the premises of the farm wine producer shall be subject to taxation pursuant to § 57-4-301(c) in addition to any sales tax which is due. The taxes shall be paid and collected in the manner prescribed by § 57-4-301 and the rules of the department of revenue promulgated under the authority of that section.

(2) Nothing in this section authorizes the collection of taxes pursuant to § 57-4-301(c) for the sale of wine:

(A) As samples for tasting, with or without charge, for consumption on the premises; or

(B) At retail in sealed containers for consumption on the premises to the extent permitted under federal law.

(u) Notwithstanding the term “wine” as defined in §§ 57-3-101, 57-3-802, and 57-4-102, wineries and farm wine producers licensed under this section may label and advertise wine made from apples as cider, apple cider, or hard cider; provided, that nothing in this subsection (u) shall affect the marketing of cider products distributed as beer by wholesalers permitted under § 57-5-103.

(v)(1) Notwithstanding any other law to the contrary, a winery or farm wine permit holder may purchase or import finished wine product from another winery in this state or another state in an amount not to exceed, in the aggregate, fifty thousand gallons (50,000 gals.) per year. A winery or farm wine permit holder that purchases or imports finished wine product under this subdivision (v)(1) may sell, distribute, serve for the purposes of samples or tastings, or otherwise use or dispose of such product in any manner that the winery or farm wine permit holder is authorized to use or dispose of wine under this section that is manufactured, bottled, or produced by the winery or farm wine permit holder.

(2) As used in this subsection (v), “finished wine product” means any wine product that is ready for use by an end user and that bears the label of the winery or farm wine permit holder that purchased or imported the finished wine product under this subsection (v).

57-3-208. Certificate required — Contents — Exceptions.

(a) As a condition precedent to the issuance of a license under § 57-3-204, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair
of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality.

(b)(1) The certificate must state:

   (A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application;

   (B) That the applicant or applicants have secured a location for the business which complies with all restrictions of any local law, ordinance, or resolution, duly adopted by the local jurisdiction, as to the location of the business;

   (C) That the applicant or applicants have complied with any local law, ordinance or resolution duly adopted by the local authorities regulating the number of retail licenses to be issued within the jurisdiction.

(2) Each applicant or officer identified in subdivision (b)(1)(A) must obtain and submit with the certificate a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation. A criminal history record that indicates that the applicant or officer has not been convicted of a felony within the immediately preceding ten-year period serves as proof satisfactory that the applicant or officer has complied with subdivision (b)(1)(A).

(c) Municipalities and counties are hereby authorized to limit the location of retail liquor stores and the number of licenses issued within their jurisdictions. No local law, ordinance or resolution may limit the location and number of licenses authorized under § 57-3-204, so as to unreasonably restrict the availability of alcoholic beverages for the residents of such municipalities and counties. A local jurisdiction may impose reasonable residency requirements on any applicant. However, if a local jurisdiction does impose such residency requirements, such local jurisdiction shall not be authorized to impose any residency requirement on any applicant who has been continuously licensed pursuant to § 57-3-204 for seven (7) consecutive years.

(d) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(e) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(f) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

   (1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

   (2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsections (c) and (d).
57-3-217. Direct shipper’s license. [Effective until July 1, 2018. See the version effective on July 1, 2018.]

(a) Any person, firm or corporation that holds a federal basic permit pursuant to the Federal Alcohol Administration Act, compiled in 27 U.S.C. § 201 et seq., and is in the business of manufacturing, bottling or rectifying wine may apply to the commission for a direct shipper’s license under this section.

(b) A direct shipper, meeting the requirements of this section, shall be authorized to make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the direct shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a direct shipper’s license as authorized in this section, an applicant for the license must satisfy the following conditions:

(1) Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A direct shipper’s license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty dollars ($150);

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the direct shipper shall be held in this state;

(3) Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of wine made in this state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the wine.

(d)(1) No direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall the shipper ship more than twenty-seven (27) liters of wine to any individual in any calendar year.

(2) Any shipment of wine pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY”.

(e)(1) A direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any direct shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this
state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a direct shipper's license and may accept an offer in compromise in lieu of suspension.

(5) A direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g)(1) It is an offense for a person who does not possess a direct shipper's license to ship wine to residents of this state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

57-3-217. Direct shipper's license. [Effective on July 1, 2018. See the version effective until July 1, 2018.]

(a) Any person, firm or corporation that holds a federal basic permit pursuant to the Federal Alcohol Administration Act, compiled in 27 U.S.C. § 201 et seq., and is in the business of manufacturing, bottling or rectifying wine may apply to the commission for a direct shipper's license under this section.

(b) A direct shipper, meeting the requirements of this section, shall be authorized to make sales and delivery of wine, as defined in § 57-3-101, by common carrier to the citizens of this state over the age of twenty-one (21) who have purchased the wine directly from the direct shipper, subject to the limitations and requirements imposed by this section.

(c) As a condition to the issuance of a direct shipper's license as authorized in this section, an applicant for the license must satisfy the following conditions:

(1) Pay to the commission a one-time nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. A direct shipper's license under this section shall not be issued until the applicant has paid to the commission the annual license fee of one hundred fifty dollars ($150);

(2) Execute a consent to jurisdiction and venue of all actions brought before the commission, any state agency or the courts of this state, such that any and all hearings, appeals and other matters relating to the license of the direct shipper shall be held in this state;

(3) Acknowledge, in writing, that it will contract only with common carriers that agree that any delivery of wine made in this state shall be by face-to-face delivery and that deliveries will only be made to individuals who demonstrate that the individuals are over twenty-one (21) years of age and the individuals sign upon receipt of the wine.

(d)(1) No direct shipper may ship more than a total of nine (9) liters of wine to any individual during any calendar month nor shall the shipper ship more
than twenty-seven (27) liters of wine to any individual in any calendar year.

(2) Any shipment of wine pursuant to this section shall be made only in containers that clearly indicate on the exterior of the container, visible to a person at least three feet (3') away, that the container “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY”.

(e)(1) A direct shipper shall be responsible for remitting all sales taxes due resulting from any sale made under this section. In addition to all sales taxes imposed upon such sale, a direct shipper shall remit the gallonage tax as imposed by § 57-3-302.

(2) The taxes levied on sales made by a direct shipper as authorized by this section shall become due and payable on the first day of each month following the month during which the sales occur, and shall become delinquent if not paid on or before the twentieth day of each such following month. For the purpose of ascertaining the amount of tax due, it is the duty of any direct shipper licensed pursuant to this section to transmit to the commissioner of revenue appropriate returns on forms prescribed by the commissioner.

(3) Upon request of the commission or its designated agent, any direct shipper licensed pursuant to this section shall provide to the commission, under penalty of perjury, a list of any wine shipped to an address within this state, including the addressee.

(4) The commission may enforce the requirements of this section by administrative action, may suspend or revoke a direct shipper’s license and may accept an offer in compromise in lieu of suspension.

(5) A direct shipper that is found to have violated this title, in addition to any fine imposed by the commission, shall reimburse the commission for all costs incurred in connection with the investigation and administrative action, including the out-of-pocket costs and reasonable personnel costs.

(6) No direct shipper may avoid liability under this section by subcontracting with a third party to perform its obligations required pursuant to this section.

(f) The commission and the department of revenue are authorized to promulgate rules and regulations that may be necessary to implement this section, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(g)(1) It is an offense for a person who does not possess a direct shipper’s license to ship wine to residents of this state.

(2) A violation of subdivision (g)(1) is a Class E felony, punishable by a fine only.

(h)(1) Each common carrier that contracts with a direct shipper under this section for delivery of wine into this state shall prepare and file monthly with the department of revenue a report of known wine shipments containing the name of the common carrier making the report, the period of time covered by the report, the name and business address of the consignor, the name and address of each consignee, the weight of the package delivered to each consignee, a unique tracking number, and the date of delivery. Reports received by the department of revenue must be made available to the public pursuant to the open records law, compiled in title 10, chapter 7.

(2) Upon the request of the commissioner of revenue, any records supporting the report must be made available to the department of revenue within a reasonable time after the commissioner makes a written request for such
records. Any records containing information relating to such reports must be retained and preserved for a period of two (2) years, unless destruction of the records prior to the end of such retention period is authorized in writing by the department of revenue. Such records must be open and available for inspection by the department of revenue upon written request. Reports must also be made available to any law enforcement agency or regulatory body of any local government in this state in which the common carrier making the report resides or does business.

(3) Any common carrier that willfully fails to make reports in accordance with this section or that violates any rules of the department of revenue for the administration and enforcement of this section is subject to a notification of violation. If a common carrier continually fails to make reports, the common carrier may be fined in an amount not to exceed five hundred dollars ($500) for each delivery not reported to the department of revenue. Unpaid fines assessed under this subdivision (h)(3) must be collected in accordance with title 67, chapter 1.

(4) This subsection (h) does not apply to common carriers regulated under 49 U.S.C. §§ 10101 et seq., or to rail trailer-on-flatcar/container-on-flatcar (TOFC/COFC) service, as defined in 49 CFR § 1090.1, or highway TOFC/COFC service provided by a rail carrier, either itself or jointly with a motor carrier, as part of continuous intermodal freight transportation, including, without limitation, any other TOFC/COFC transportation as defined under federal law.

57-3-221. Manager's permit.

(a) There is created a manager's permit to be issued by the commission to any individual who will be in actual control of the alcohol, wine or beer operations of a retailer licensed under § 57-3-204, or a retail food store wine licensee.

(b) An individual seeking a manager's permit shall make application for such permit by completing an application form in the manner prescribed by the commission. The individual must demonstrate that the individual meets the following requirements:

(1) Has not been convicted of any crime involving the sale or distribution of alcohol over the previous eight (8) years;
(2) Has not been convicted of any felony within the previous five (5) years;
(3) Is at least eighteen (18) years of age;
(4) Has not had an employee or server permit or any similar type permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous three (3) years;
(5) Does not hold any ownership interest in any licensee or permittee licensed pursuant to § 57-3-203, nor shall the individual have had any ownership interest in any licensee licensed under this title that has had its license revoked by the issuing authority within the previous eight (8) years; and
(6) Has received training in alcohol awareness and the rules and regulations of the commission by an entity approved by the commission pursuant to § 57-3-705.

(c) The manager's permit shall be valid for a period of five (5) years. The commission may impose a fee for the processing and cost of issuance of the
manager's permit and for renewal of such permit. The fee shall be adequate for
the commission to undertake an appropriate verification of the information
provided by the applicant. This fee, which shall not exceed two hundred dollars
($200), shall be determined by the commission.

d) Manager's permits shall be required for the appropriate individuals at
retailers licensed under § 57-3-204 and retail food store wine licensees.

57-3-404. Regulations for purchase and sale of intoxicating liquors —
Wholesalers — Check cashing — Ground floor location —
Credit sales.

(a) It is unlawful for any person in this state to buy any alcoholic beverages
herein defined from any person, who, to the knowledge of the buyer, does not
hold the appropriate license under the laws of this state authorizing the sale
of such beverages to the buyer.

(b) No retailer shall purchase any alcoholic beverages from anyone other
than a licensed wholesaler, nor shall any wholesaler sell any alcoholic
beverages to anyone other than a licensed retailer or retail food store licensed
to sell wine pursuant to part 8 of this chapter or a licensed wholesaler;
provided, that such alcoholic beverages sold by one (1) wholesaler to another
wholesaler shall be transported by common carrier or by vehicle owned or
leased and operated by either the consignor wholesaler or the consignee
wholesaler.

(c) No manufacturer or distiller shall sell any alcoholic beverages to any
person in this state except a licensed wholesaler and to another manufacturer
or distiller, and no manufacturer shall hold a wholesaler's license.

(d)(1) No alcoholic beverage for sale to the retailer, or the retailer's repre-
sentative, shall be sold except by a licensed wholesaler, who sells for resale
on the wholesaler's premises and who carries on no other business, directly
or indirectly, and whose wholesale business in alcoholic beverages is not
operated as an adjunct to, or supplementary to, the business of any other
person, either by way of lease of the wholesale premises or otherwise, for any
business other than that permitted by the terms of such wholesaler's
wholesale license.

(2) Notwithstanding the limitations and restrictions imposed by this
section, a wholesaler may invest its business assets in other businesses, and
may engage in the sale and distribution of products other than alcoholic
beverages; provided, that gross revenues from such other businesses and
from the sale of products other than alcoholic beverages may not exceed fifty
percent (50%) of a wholesaler's total gross revenues.

(3) A licensed alcoholic beverages wholesaler may lawfully engage in
activities covered by chapter 5 of this title, as provided by § 57-3-203(b)(2),
without regard to the amount of gross revenues produced by such operation.
Such wholesaler may, at the wholesaler's discretion, use the same warehouse
and other facilities, vehicles and employees in both operations, provided that
all legal requirements applicable to such operations are satisfied with
respect to each operation.

(e)(1) No retail licensee shall operate its business involving the sale of wine,
beer or other alcoholic beverages in connection with the wholesale distribu-
tion of wine, beer or other alcoholic beverage nor shall such licensee sell its
wine, beer or other alcoholic beverage for purposes of resale.
(2) Notwithstanding subsection (a), beginning July 1, 2014, a retail licensee holding a license issued under § 57-3-204 shall be permitted to sell at retail beer and other malt beverages, subject to the restriction in § 57-3-806(e). No permit or license other than the license issued pursuant to § 57-3-204 shall be required for the licensed retailer to engage in such sales of beer and other malt beverages and the issuer of that license has the authority to enforce any laws related to such sales.

(3) A retail licensee shall be permitted to cash a check or other negotiable instrument for a fee when such service is made available to a person over twenty-one (21) years of age. No postdated check shall be cashed by a licensee under this section.

(4) Beginning July 1, 2014, a retail licensee shall also be permitted to sell at retail items related to or incidental to the use, consumption, dispensing or storage of alcoholic beverages, together with merchandise and supplies related to special events or parties, subject to the restriction in § 57-3-806(e). Such items may include, but are not limited to:

(A) Newspapers, magazines, publications, videos and other media related to alcoholic beverages or food;
(B) Utensils and supplies related or incidental to the use, consumption, dispensing or storage of alcoholic beverages, including, without limitation, corkscrews, beverage strainers, pourers, flasks, jiggers, stirrers, wine racks, wine refrigerators, wine cellars, decanters, carafes, glassware, ice crushers, bottle openers, can openers, and devices to maximize oxidation in uncorked wine bottles and other items used in connection with the consumption, storage or dispensing of alcoholic beverages;
(C) Gift cards, packages and baskets that include alcoholic beverages and nonalcoholic items;
(D) Nonalcoholic beverages;
(E) Kegs and growlers, whether empty or filled with beer, wine or alcoholic beverages, on the licensed premises;
(F) Concentrates and ingredients used in the preparation of mixed alcoholic beverages;
(G) Beer and wine-making kits;
(H) Products and supplies related to beer and wine-making;
(I) Lemons, limes, cherries, olives and other food items used in the preparation or garnishment of alcoholic beverages or mixed alcoholic beverages;
(J) Peanuts, pretzels, chips, cheese, crackers, appetizers and other snack foods;
(K) Beverage coolers, ice chests and ice in any form;
(L) Party supplies, party decorations, gift bags, greeting cards and other items for parties and special events;
(M) Articles of clothing and accessories imprinted with advertising, logos, slogans, trademarks or messages related to alcoholic beverages;
(N) Combined packages containing multiple alcoholic beverages;
(O) Cigarettes, cigars and lighters and other smoking or tobacco related products; and
(P) Lottery tickets if the retailer's application is approved by the Tennessee education lottery corporation as provided in § 4-51-115(e).

(5) A retail licensee may sell nonalcoholic products to persons under twenty-one (21) years of age including gift cards.
(f) No wholesale or retail store shall be located except on the ground floor,
and it may have two (2) main entrances opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a wholesale or retail store is located on the corner of two (2) public streets, such wholesale or retail store may maintain a door opening on each of the public streets. Any sales room adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby so long as same shall be open to the public. Every wholesale and retail store shall be provided with whatever entrances and exits may be required by existing or future municipal ordinances. When the location of a wholesale or retail liquor store is authorized to be located or operated within an established shopping center or shopping mall, and such liquor store cannot and does not have a main entrance or door opening onto a public street, but the main entrance or door would open or front on a shopping center parking area, the commission in its discretion may approve the issuance of a liquor license to cover such location within the shopping center or shopping mall, irrespective of the fact that the main entrance or door does not or would not open onto a public street.

(g)(1) No holder of a license for the sale of alcoholic beverages for wholesale or retail shall sell, deliver, or cause, permit or procure to be sold or delivered, any alcoholic beverages on credit, except that holders of wholesale licenses may sell on not more than ten (10) days’ credit.

(2) The ten-day period begins from delivery and receipt by the retail licensee. The ten-day period cannot include any day that the wholesaler is not open to make deliveries, receive payment or receive mail.

(3) Any suspension of deliveries is a credit decision to be made by a wholesaler and a retail licensee.

(4) A wholesaler shall be permitted to communicate with another wholesaler about the account status of any retail licensee.

(5) Wholesalers shall advise the commission of any failure of a retailer to comply with this subsection (g).

(6) The commission shall be permitted to post the account status of a retail licensee with any wholesaler on its web site.

(7) This subsection (g) shall not apply to nonalcoholic products.

(h)(1) No alcoholic beverages shall be sold for consumption on the premises of the seller except as provided in §§ 57-4-101 — 57-4-203, and except as may be permitted by the regulations of the commission for the purpose of conducting consumer educational seminars by a licensee under § 57-3-204, conducted on the premises of a business licensed pursuant to §§ 57-4-101 — 57-4-203. A wholesaler licensed pursuant to § 57-3-203 or a person holding a permit as a representative or sales person pursuant to § 57-3-203(d) may conduct a sales demonstration on the premises of a licensed retailer and, for such limited purpose, may provide free samples to the employees of a licensed retailer for consumption on such premises. A retail licensee may conduct such a sales demonstration for the persons employed by such licensee holding permits issued pursuant to § 57-3-204(c) using products and samples provided by a wholesaler or wholesaler sales representative notwithstanding the absence of the wholesaler or wholesaler sales representative. All such sales demonstrations permitted consumption shall be permitted only for sales, education, and promotional purposes and no one other than a retail licensee, a person holding a permit issued pursuant to
§ 57-3-204(c), a wholesaler or a wholesaler sales representative, or a person holding a permit issued pursuant to § 57-3-202(d) may be present in the room where such demonstration is conducted or may receive a sample for consumption.

(2)(A) A retail licensee may offer complimentary samples of the products it sells for tastings to be held on the premises of the retail licensee. Such tastings shall be for sales, education and promotional purposes. No person holding a license under § 57-3-203 shall, directly or indirectly, provide any products, funding, labor, support or reimbursement to a retailer for the consumer tastings authorized by this subdivision (h)(2).

(B)(i) The tastings may be held at the option of the retail licensee during the hours the retail licensee is open for business, without filing any notice other than as provided in subdivision (h)(2)(B)(ii) with the commission, and no charge or fee may be assessed by the commission for a retail licensee to offer such complimentary samples.

(ii) With its annual renewal, the retail licensee shall notify the commission of its intention to conduct tastings during the year on the premises of the retail licensee. If following the date the license is renewed, the retail licensee makes a determination to offer tastings, the licensee shall notify the commission of its intention to conduct tastings for the remainder of the year.

(C) The size of each sample shall be no greater than approximately two ounces (2 oz.) for each wine or high alcohol content beer sample and no greater than approximately one half ounce (½ oz.) for each liquor sample. It is the responsibility of the retail licensee to limit the number of tastings per customer and the number of products available for tasting.

(D) Notwithstanding any law or rule to the contrary, a retail licensee or employee of the licensee may participate in tastings.

(E) A server permit is not required for employees conducting tastings if the employee has a permit pursuant to § 57-3-703; provided, that every retail licensee which offers tastings is encouraged to ensure that any employee who is involved with the tastings understands that a violation of § 57-3-406(c) and (d) and § 57-3-412 related to retail sales apply equally to those customers who participate in the tastings.

(F) A supplier may provide, through licensed wholesalers, products for tasting purposes by a retail licensee.

(i) No wholesaler may provide a discount or other reduction in price to a retailer or retail food store wine licensee by virtue of the sales made to any other licensee. Any discount or pricing made available to a retailer or retail food store wine licensee shall be made available on the same terms and conditions to other retailers and food store wine licensees within the same jurisdiction. Any quantity discounts provided by wholesalers to any retailer licensed under this chapter or any licensee licensed under chapter 4 of this title cannot be cumulative in nature, but can be based only upon products delivered contemporaneously. No retail food store wine licensee may receive any remuneration, by whatever name, at a corporate office located inside or outside this state that affects the profitability of wine or beer sales in this state, that is not made available to all retail licensees or other retail food stores licensed to sell wine or beer in this state.
57-3-411. Contraband goods — Property subject to seizure and sale.

(a) All alcoholic beverages as defined in § 57-3-101 which are or shall be owned or possessed by any person in avoidance, evasion or violation of any of the provisions of this chapter are declared to be contraband goods, and the same may be seized by the alcoholic beverage commission, or any duly authorized representative, agent or employee of the commission, without a warrant, and such goods may be delivered to the commission for sale at public auction to the highest bidder after due advertisement. The proceeds of all such seizures shall be paid by the commission into the state treasury, and ten percent (10%) of such proceeds shall be set aside as expenses for the administration of this section.

(b) Any vehicle, not a common carrier, which may be used for transportation for the purpose of distribution, gift or sale of untaxed alcoholic beverages shall likewise be subject to confiscation and sale, in the same manner as above provided. Should any alcoholic beverages in excess of five gallons (5 gals.) be found in any vehicle without receipts or other prescribed documents demonstrating that the tax under this chapter has been paid, the same shall be prima facie evidence that it was there for gift, sale or distribution.

(c) In all cases of seizure of any alcoholic beverages, or other property subject to forfeiture under this chapter, the officer or other person making the seizure shall proceed as follows:

1. The officer or other person shall deliver to the person, if any, found in possession of such property, a receipt, showing a general description of the seized goods. A copy of the receipt shall be filed in the office of the commission and shall be open to the public for inspection;

2. All such property seized and confiscated under this chapter may be sold at public sale by the commissioner of general services when the same has been turned over to the commissioner by the commission as now authorized by law;

3. Any person claiming any property so seized as contraband may within ten (10) days from the date of seizure, file with the commission at Nashville a claim in writing, requesting a hearing and stating the person’s interest in the articles seized. The commission shall set a date for hearing within ten (10) days from the day the claim is filed. Any decision of the commission adverse to any claimant may be reviewed in the manner now provided by law for the review of actions of boards or commissions as prescribed by title 27, chapter 9;

A. In the event the ruling of the commission is favorable to the claimant, the commission shall deliver to the claimant the alcoholic beverages or other property so seized. If the ruling of the commission is adverse to the claimant, the commission shall proceed to sell such contraband goods in accordance with the foregoing provisions of this section, unless the claimant shall secure a supersedeas under § 27-9-106, or unless the claimant shall give a bond under subdivision (c)(3)(B).

B. When the ruling of the commission is adverse to the claimant, the alcoholic beverages or property so seized shall be delivered to the claimant. Such claimant shall give a bond payable to the state of Tennessee in an amount double the value of the property seized, with sureties approved by the commission. The condition of the bond shall be that the obligors shall pay to the state, through the commission, the full value of the goods
or property seized, unless upon certiorari the decision of the commission shall be reversed and the right of the claimant to such property is judicially determined.

(C) If no claim is interposed, such alcoholic beverages or other property shall be forfeited without further proceedings and the same shall be sold as herein provided. The above procedure is the sole remedy of any claimant, and no court shall have jurisdiction to interfere therewith by replevin, injunction or in any other manner.

(d) If, incidental to a confiscation of contraband as defined herein, there is discovered any beer as defined in § 57-5-101(b) deemed to be held or transported illegally within the purview of § 57-5-409, or any tobacco products deemed to be held or transported illegally within the purview of § 67-4-1020, the confiscating officer is hereby empowered and required to seize such beer or tobacco, notwithstanding the fact that such officer may not otherwise be empowered to take such action under § 57-5-409 or § 67-4-1020. Any beer or tobacco seized pursuant hereto shall be delivered promptly as provided by § 57-5-409 or § 67-4-1020, whichever is appropriate, to the department of revenue for sale or disposition as contraband in accordance with chapter 5 of this title or title 67, chapter 4, part 10, whichever is appropriate.

(e) In all cases of seizure or confiscation of property under this chapter where the commission does not sell such property at public auction, the commission may destroy such property after resolution of the criminal or administrative process; provided, that the property is of nominal value in comparison to the cost of a public sale.

57-3-702. Commission authorized to issue permits.

The commission is authorized to issue employee permits pursuant to §§ 57-3-203(d), 57-3-203(e), 57-3-204(c) and server permits pursuant to § 57-4-203(h) in accordance with the requirements of this part.

57-3-703. Application requirements for employee permit.

(a) Any individual may be eligible for an employee permit by completing an application for such a permit on the forms provided by the commission. An applicant for an employee permit must demonstrate to the commission that the applicant is at least eighteen (18) years of age and:

1. Has not been convicted of a felony offense involving theft, dishonesty, deceit, or intoxication within the previous eight (8) years;

2. Has not been convicted of any crime involving the sale or distribution of alcoholic beverages or beer, Schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

3. Has not had an employee permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and

4. Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101 or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivisions (a)(1)-(4), but is otherwise eligible for a permit, then the applicant’s application shall be
initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivisions (a)(1)-(4).

(c)(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application’s denial will be final and the applicant may not reapply for an employee permit until the relevant time period described in subdivisions (a)(1)-(4) has expired. If a person applies for an employee permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application at a hearing held pursuant to subsection (b), then the application’s denial will be final and the applicant may not reapply for an employee permit or apply for a server permit pursuant to § 57-3-704 until the relevant time period described in subdivision (a)(1)-(4) has expired. If a person applies for an employee or server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-704(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(1) or (a)(2) after being issued an employee permit pursuant to this section, the commission may institute proceedings to revoke the person’s employee permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, refuse to revoke the person’s employee permit, notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(1) or (a)(2). If the administrative law judge, hearing officer, or commission revokes an employee permit pursuant to this subsection (d), then the applicant may not reapply for an employee permit or apply for a server permit pursuant to § 57-3-704 until the relevant time period described in subdivision (a)(1) or (a)(2) has expired. If a person applies for an employee or server permit in violation of this subdivision (d), then such application shall be denied and subsection (b) or § 57-3-704(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer this section pursuant to the Uniform Administrative Procedures Act.

57-3-704. Application requirements for server permits.

(a) Any individual may be eligible for a server permit by completing an application for such a permit on the forms provided by the commission. An applicant for a server permit must demonstrate to the commission that the applicant meets the following requirements:

(1) Within one (1) year prior to the submission of the application the applicant has successfully completed a program of alcohol awareness training for persons involved in the direct service of alcohol, wine or beer by an entity certified by the commission to have an adequate training curriculum.
for alcohol awareness. If, in the determination of the commission, a state other than Tennessee is deemed to have an adequate program of alcohol awareness training, then the successful completion of such training in that state within one (1) year prior to the submission of an application to the commission for a server permit shall satisfy the requirement of alcohol awareness training;

(2) The applicant is at least eighteen (18) years of age; and

(3) The applicant:

(A) Has not been convicted of a felony offense involving theft, dishonesty, deceit, or intoxication within the previous eight (8) years;

(B) Has not been convicted of any crime relating to the sale or dispensing of alcoholic beverages or beer, Schedules I and II controlled substances, or controlled substance analogues or any sex-related crime or embezzlement within the previous eight (8) years;

(C) Has not had a server permit or any similar permit issued by the state, any local jurisdiction, or any foreign jurisdiction revoked by any issuing authority within the previous five (5) years; and

(D) Has not had an ownership interest in any licensee or permittee, licensed or permitted pursuant to § 57-3-203, § 57-3-204, § 57-3-207, § 57-4-101 or § 57-5-103 which has had its license or permit revoked by the issuing authority within the previous eight (8) years.

(b) If an applicant does not meet the requirements of subdivision (a)(3), but is otherwise eligible for a server permit, then the applicant’s application shall be initially denied pursuant to this subsection (b). Within thirty (30) days of such initial denial, the applicant may request a hearing to be held pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. At such hearing, the administrative law judge or hearing officer may consider any evidence the administrative law judge or hearing officer deems relevant to the matter and may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, approve the application and grant the employee permit, notwithstanding the requirements of subdivision (a)(3).

(c)(1) If an applicant does not request a hearing pursuant to subsection (b) within the required period, then the application’s denial will be final and the applicant may not reapply for a server permit until the relevant time period described in subdivision (a)(3) has expired. If a person applies for a server permit in violation of this subdivision (c)(1), then such application shall be denied and subsection (b) shall not apply.

(2) If the administrative law judge, hearing officer, or commission denies an application pursuant to subsection (b), then the application’s denial will be final and the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3) has expired. If a person applies for a server permit in violation of this subdivision (c)(2), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(d) If a person is convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B) after being issued a server permit pursuant to this section, the commission may institute proceedings to revoke the person’s server permit pursuant to § 57-3-214; provided, that the administrative law judge or hearing officer may, if in the administrative law judge’s or hearing officer’s judgment the principles of equity require, refuse to revoke the person’s server permit,
notwithstanding a finding that the person has been convicted of an offense described in subdivision (a)(3)(A) or (a)(3)(B). If the administrative law judge, hearing officer, or commission revokes a server permit pursuant to this subsection (d), then the applicant may not reapply for a server permit or apply for an employee permit pursuant to § 57-3-703 until the relevant time period described in subdivision (a)(3)(A) or (a)(3)(B) has expired. If a person applies for an employee or server permit in violation of this subsection (d), then such application shall be denied and subsection (b) or § 57-3-703(b) shall not apply.

(e) The commission may promulgate rules and regulations to enforce and administer the provisions of this section pursuant to the Uniform Administrative Procedures Act.

(f) The commission may suspend or revoke a server permit for any violation of this title or any rule or regulation promulgated by the commission committed by the permit holder. The commission may, in lieu of suspending or revoking a server permit under this subsection (f), require the server to retake and successfully complete a program of alcohol awareness training conducted by an entity certified by the commission.

(g)(1) Any employee, representative, or agent of a permittee whose duties include verifying that a person is twenty-one (21) years of age or older for the purpose of authorizing the person access to the premises of the permittee shall, during any period in which the employee, representative, or agent is required to verify that a person is twenty-one (21) years of age or older, require each person seeking access to the premises whose physical appearance does not reasonably demonstrate an age of fifty (50) years or older to present a valid, government-issued document or other acceptable form of identification that includes the photograph and birth date of the person.

(2) The commission may impose a fine of five hundred dollars ($500) against any employee, representative, or agent of a permittee who violates subdivision (g)(1).

(3) As used in this subsection (g):

(A) “Employee, representative, or agent” does not include a server permitted under § 57-4-203(h) and the Alcohol Server Responsibility and Training Act of 1995, compiled in chapter 3, part 7 of this title; and

(B) “Permittee” means any person, business, or other entity issued a permit under chapter 4 of this title for the purpose of authorizing the sale and consumption of alcoholic beverages on the premises of the permittee.

57-3-705. Commission certification.

The commission shall certify any organization or entity seeking to provide alcohol awareness training for employees or servers, or both, upon adequate demonstration to the commission that the curriculum, faculty, materials and facilities of the organization or entity meet such minimum standards as shall be fixed by the commission. The commission is authorized to review the adequacy of the curriculum, faculty, materials and facilities of any certified trainer at any time. Failure of any certified trainer to maintain adequate records, respond to a request for information from the commission, or meet the minimum standards prescribed by the commission shall be grounds to decertify the organization or entity. The commission may certify any online training programs that meet the minimum standards as set by the commission.


57-3-805. Location of licensed premises.

The premises of a retail food store wine license may be located in a municipality or the unincorporated areas of a county; provided, that such county or municipality has approved sales of wine by retail food stores by local option election pursuant to § 57-3-801. If a county-wide referendum is approved under this part, the premises of a retail food store wine license may be located in any municipality that participated in the referendum regardless of the minimum population requirement for a municipality in § 57-3-101.

57-3-806. Certificate to accompany application for license — Contents — Requirements for renewal of license — Limitation on location of licensed premises — Review of denial of certificate.

(a) As a condition precedent to the issuance of a license under § 57-3-803, every applicant for a license under that section shall submit with the application to the commission a certificate signed by the county mayor or chair of the county commission in which the licensed premises are to be located if outside the corporate limits of a municipality or, if within a municipality, from the mayor or a majority of the commission, city council, or legislative body of the municipality, by whatsoever name designated, or if the municipality has no mayor, from the highest executive of the municipality. The issuance of a certificate shall not be conditioned on the residency of the applicant, including, but not limited to, requiring the applicant to live within the county or municipality, or additional conditions not required by this section.

(b)(1) The certificate must state:

(A) That the applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten-year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten-year period immediately preceding the date of the application; and

(B) That the applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the local jurisdiction, as to the location of the business.

(2) Each applicant or officer identified in subdivision (b)(1)(A) must obtain and submit with the certificate a local and national criminal history record obtained from a third party using a multistate criminal records locator or other similar commercial nationwide database with validation. A criminal history record that indicates that the applicant or officer has not been convicted of a felony within the immediately preceding ten-year period serves as proof satisfactory that the applicant or officer has complied with subdivision (b)(1)(A).

(c) Municipalities and counties are not authorized to limit the number of retail food store wine licenses issued within their jurisdictions.

(d)(1) In order to renew a retail food store wine license, the licensee must maintain a minimum of twenty percent (20%) of the licensee’s sales taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a), such percentage to be calculated on an annual basis. The licensee shall keep sales and purchase records through accounting methods that are customary or reasonable in the
retail food store business.

(2) A retail food store wine licensee who fails to comply with subdivision (d)(1) in achieving the minimum required sales or in failing to keep adequate records shall have one (1) year to come into compliance. During this one-year period, the licensee shall work with the commission in creating a plan that would bring the licensee into compliance with this subsection (d).

(3) Failure to comply after the one-year period shall result in the retail food store wine license being suspended or revoked by the commission.

(4) In order to determine compliance with subdivision (d)(1), each retail licensee shall submit sales information to the commission in such form as the commission deems appropriate at the time the licensee applies for a license or upon renewal of such license. Each licensee shall provide the licensee’s sales tax registration number to the commission. The commission is authorized to verify sales information if the commission deems it necessary with the department of revenue.

(e) [Deleted by 2016 amendment.]

(f)(1) No retail food store wine license shall be issued to a retail food store located within a shopping center or other development unless documentation is provided to the commission that the retail food store has:

(A) Not prohibited or restricted, through its lease or other agreement with the owner of the shopping center or development, the sale of wine or other alcoholic products by others at the shopping center or development; or

(B) Waived any prohibition or restriction on the sale of wine or other alcoholic products, if such prohibition or restriction is in the lease.

(2) If an applicant for a retail food store wine license is the owner of the shopping center or development, the applicant shall waive any prohibition or restriction on the sale of wine or other alcoholic products on any other entity that is located within that shopping center or development owned by the applicant. Nothing in this subsection (f) shall prevent the non-applicant owner of a shopping center from imposing restrictions on its tenants through its leases or agreements.

(g) An applicant may seek review of the denial of a certificate by instituting an action in the chancery court having jurisdiction over the municipality or county within sixty (60) days of the denial.

(h) A failure on the part of the issuing authority to grant or deny the certificate within sixty (60) days of the written application for such shall be deemed a granting of the certificate.

(i) The requirement imposed by this section to submit a certificate shall not be applicable to any applicant if:

(1) The authority of the county or municipality charged with the responsibility to issue the certificate required herein shall have failed to grant or deny the certificate within sixty (60) days after written application for such certificate is filed; or

(2) The applicant submits a final order of a court holding that the denial of the required certificate was unreasonable, as established by subsection (g).

57-3-812. Storage and delivery of wine — Purchase of wine from wholesaler.

(a) A retail food store licensed to sell wine under this part shall not store any
wine off of the licensed premises.

(b) All deliveries of wine to a retail food store must be made by a licensed wholesaler through a common carrier, a contract carrier or on vehicles owned by the wholesaler. The deliveries shall only be made to the business address of the retail food store.

(c) All purchases of wine from a licensed wholesaler by a retail food store must be conducted by designated managers on premises at each retail food store location where delivery will be made. A retail food store may have more than one (1) designated manager per location.

(d) A wholesaler shall not take orders for wine from any retail food store employee other than a designated manager; provided, that an order does not include a pre-order made by a person with a pending application for a retail food store wine license.

57-3-815. **Wholesaler, manufacturer, winery, or nonresident seller's permit holder prohibited from providing certain services to licensee — Delivery of wine — Merchandising assistance.**

(a) No wholesaler licensed under § 57-3-203 and no manufacturer, winery, nonresident seller's permit holder or any employee, agent, representative or salesperson employed by or representing any such wholesaler, manufacturer, winery or nonresident seller's permit holder shall provide any services to or for the benefit of a retail food store wine licensee including, but not limited to, services involving shelving, dressing, displaying, or setting inventory owned or purchased by the retail food store licensee. A wholesaler may deliver wine to the premises of a retail food store wine licensee any time at which the wholesaler and the retail food store wine licensee’s manager mutually agree in accordance with the ordinary and customary practices of the two industries, regardless of whether the retail food store wine licensee is open to the public, and may deliver wine to a location upon the licensed premises as directed by the retail food store wine licensee.

(b) Notwithstanding subsection (a), a wholesaler, including the wholesaler's agents, servants, or employees, may provide merchandising assistance to a retail food store wine licensee pursuant to this subsection (b). Wholesalers may build and stock wholesaler displays of wine on the premises of a retail food store wine licensee. Wholesaler displays must not be part of the retail food store's regular shelving. Wholesalers may replenish wholesaler displays for a maximum period of one (1) month after the initial display has been installed. Wholesalers shall not price the wholesaler displays and shall not provide any other services or things of value to the retail food store wine licensee.

57-4-101. **Premises on which certain sales and consumption authorized.**

(a) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the premises of, or within the boundaries of, any:

1. Hotel, commercial passenger boat company, paddlewheel steamboat company, restaurant, commercial airlines, or passenger trains meeting the requirements hereinafter set out, within the boundaries of the political subdivisions, wherein such is authorized under § 57-4-103;
(2) Premier type tourist resort or club as defined in § 57-4-102, to guests of such resort and to members and guests of such clubs, subject to the further provisions of this chapter other than § 57-4-103;

(3) Convention center as defined in § 57-4-102, to those in attendance at the convention center, subject to the further provisions of this chapter other than §§ 57-3-210(b)(1) and 57-4-103;

(4) Historic performing arts center as defined in § 57-4-102, to those in attendance at the performing arts center, subject to the further provisions of this chapter other than § 57-4-103;

(5) Historic interpretive center as defined in § 57-4-102, to those in attendance at such interpretive center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);

(6) Community theater as defined in § 57-4-102, to those in attendance at such community theater, subject to the further provisions of this chapter other than § 57-4-103;

(7) Historic mansion house site as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;

(8) Terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(9) Zoological institution as defined in § 57-4-102, to those in attendance at the zoological institution, subject to the further provisions of this chapter other than § 57-4-103. No such wine, alcoholic beverages or beer shall be served during the regular operating hours where the institution is open to the general public unless a special event is scheduled for fund-raising purposes which is by invitation or for which an admission is charged for such event;

(10) Museum as defined in § 57-4-102, to those in attendance at the museum, subject to the further provisions of this chapter other than § 57-4-103. No alcoholic beverage or beer shall be served during the regular operating hours when the museum is open to the general public except at a restaurant located on the premises of such museum or at a special event scheduled for fund-raising purposes when such event is either by invitation or admission is charged;

(11) Commercial airline travel club as defined in § 57-4-102, located within a terminal building of a commercial air carrier airport as defined in § 57-4-102, subject both to the further provisions of this chapter, other than § 57-4-103, and to the approval of a majority of the governing board of such commercial air carrier airport;

(12) Public aquarium as defined in § 57-4-102, to those in attendance at the public aquarium subject to this chapter;

(13) Aquarium exhibition facility as defined in § 57-4-102, to those in attendance at such facility subject to the provisions of this chapter. Such alcoholic beverages, wine and beer shall only be sold on such premises at special functions, wherein attendance is limited to invited guests or groups, the function is not open to the general public, and the area in which the function is held is not open to the general public during such function;

(14) Caterer licensed under this chapter as well as at such other sites as the licensed caterer has given advanced notice to the commission. Such sites shall be considered to be within the licensed premises for the purposes of this
chapter;
    (15) Sports authority facility as defined in § 57-4-102, to those in attendance at such sports authority facility, subject to the further provisions of this chapter. A sports authority facility as defined in § 57-4-102(33)(A) constitutes an urban park center for the purposes of the taxes provided in § 57-4-301;
    (16) Theater as defined in § 57-4-102, to those in attendance at such theater, subject to the further provisions of this chapter;
    (17) [Deleted by 2015 amendment]
    (18) Retirement center as defined in § 57-4-102;
    (19) Tennessee River resort district as defined in § 57-4-102, subject to the further provisions of this chapter other than § 57-4-103;
    (20) Civic arts center as defined in § 57-4-102, to those in attendance at the civic arts center, subject to the further provisions of this chapter other than § 57-4-103; and
    (21) Limited service restaurant as defined in § 57-4-102, wherein such is authorized under § 57-4-103.
  
  (b) It is lawful to sell wine and other alcoholic beverages as defined in § 57-4-102, to be consumed on the premises of any:
    (1) Permanently constructed facility within an urban park center as defined in § 57-4-102, to those in attendance at the urban park center, subject to the further provisions of this chapter other than §§ 57-4-103 and 57-3-210(b)(1);
    (2) Any motor speedway as defined in § 57-4-102, to the patrons and guests of such motor speedway, subject to the further provisions of this chapter other than § 57-4-103. The phrase “premises of any motor speedway” includes any permanent or temporary structure erected on the motor speedway site as defined in § 57-4-102(22)(A); and
    (3) Country club located on an historic property, as defined in § 57-4-102, to the patrons and guests of such country club, subject to the further provisions of this chapter other than § 57-4-103.
  
  (c) It is lawful to sell wine, as defined in § 57-4-102, to be consumed on the premises of any:
    (1) Restaurant located within the boundaries of any political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103, subject to the further provisions of this chapter. Notwithstanding the minimum seating requirement for a restaurant in § 57-4-102, a restaurant operating under this subsection (c) shall have a seating capacity of at least forty (40) people at tables, except in central business improvement districts located in counties having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census where such restaurants shall have a seating capacity of at least twenty-four (24) people; and
    (2) Bed and breakfast establishment as defined in § 57-4-102, to the guests of the bed and breakfast establishment, subject to the further provisions of this chapter other than § 57-4-103.
  
  (d) It is lawful to serve wine and other alcoholic beverages as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any club as defined in § 57-4-102(8)(G), to the guests of the club, subject to the further provisions of this chapter other than § 57-4-103; provided, that such club is located in a county having a population of not less than one
hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census, and in a municipality which lies within two (2) contiguous counties.

(e) It is lawful to serve wine as defined in § 57-3-101, and beer as defined in § 57-6-102, to be consumed on the premises of any restaurant as defined in § 57-4-102(29)(G), located in the unincorporated areas of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(f) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any historic inn as defined in § 57-4-102, to the patrons and guests of the historic inn, subject to the further provisions of this chapter other than § 57-4-103.

(g) It is lawful for a charitable, nonprofit or political organization possessing a special occasion license pursuant to § 57-4-102 to serve or sell wine and other alcoholic beverages as defined in § 57-4-102, and beer as defined in § 57-6-102, to be consumed on the designated premises, or sold or donated in sealed containers for off-premises consumption within the boundaries of a political subdivision wherein the sale of alcoholic beverages at retail has been approved pursuant to § 57-3-106 or wherein the sale of alcoholic beverages for consumption has been approved pursuant to § 57-4-103. A special occasion license may also be issued for an event within the unincorporated portion of a county if at least one (1) municipality in such county has approved the sale of alcoholic beverages at retail pursuant to § 57-3-106 or the sale of alcoholic beverages for consumption pursuant to § 57-4-103.

(h) Any hotel or motel licensed under this chapter may dispense sealed alcoholic beverages and beer to adult guests through locked, in-room units. Distilled spirits so dispensed shall be in bottles not exceeding fifty milliliters (50 ml.). No person under the age of twenty-one (21) shall be issued or supplied with a key by any hotel or motel for such units. Such units may only be located in any such hotel or motel if the voters of such municipality have approved the consumption of alcoholic beverages on the premises by referendum, and in any county in which such municipalities are located if the voters of such county have approved the consumption of alcoholic beverages on the premises by referendum.

(i) A restaurant or hotel licensed under this chapter may seek an additional license permitting the restaurant or hotel to distribute and sell wine, beer and other alcoholic beverages at locations other than the licensed premises if the restaurant or hotel is providing catering services, if such location is within a jurisdiction where such sales are authorized. A caterer licensed under this chapter may distribute and sell wine, beer and other alcoholic beverages at locations other than the permanent catering hall if the caterer is providing catering services at a location that is within a jurisdiction where such sales are authorized.

(j) It is lawful to serve wine as defined in § 57-4-102 within a special historic district as defined in § 57-4-102 on Fridays and Saturdays. Such establishments serving wine within the special historic district shall not be required to obtain a special occasion license pursuant to § 57-4-102 or be required to obtain server permits pursuant to chapter 3, part 7 of this title. This section shall not apply to any restaurant or bar located within the special historic
district.

(k) It is lawful to serve wine, as defined in § 57-3-101, to be consumed on the premises of any restaurant, as defined in § 57-4-102(29)(I), located in any county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(l) It is lawful to serve wine as defined in § 57-3-101, to be consumed on the premises of any restaurant as defined in § 57-4-102(29)(K), located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, subject to the further provisions of this chapter other than § 57-4-103.

(m) A premier type tourist resort, as defined in § 57-4-102(26)(FFF), licensed pursuant to this part, shall be allowed to sell beer, as defined in § 57-5-101(b), to its patrons or guests, for either on-premises or off-premises consumption provided such premier type tourist resort, as defined in § 57-4-102(26)(FFF), obtains a permit, pursuant to chapter 5 of this title, issued by the county or city where such premier type tourist resort is located.

(n) A licensee who qualifies for a restaurant license, limited service restaurant license, or hotel license may also serve alcoholic beverages in any area of the premises designated on the application that is used for the purpose of entertainment activities. Entertainment activities may include, but are not limited to, bowling, billiards, games, auditoriums, darts, or golf driving ranges. Any area used for entertainment activities shall have table service or be within close observation distance from the service area of the facility as determined by the commission.

(o) It is lawful to furnish, dispense, or give away alcoholic beverages and beer without a license or permit issued by the commission at a private party or private event.

57-4-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Alcoholic beverage” or “beverage” means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer as defined in § 57-5-101(b). Notwithstanding any provision to the contrary in this title, “alcoholic beverage” or “beverage” also includes any product containing distilled alcohol capable of being consumed by a human being manufactured or made with distilled alcohol irrespective of alcoholic content, including any infused product;

(2) “Aquarium exhibition facility” means an enclosed facility possessing each of the following characteristics:

(A) The facility is owned and operated by a bona fide charitable or nonprofit organization that also owns and operates a “public aquarium” as defined in subdivision (28);

(B) The facility contains a minimum area of ten thousand square feet (10,000 sq. ft.); and

(C) The facility is used for either or both of the following purposes:
(i) The exhibition to the public of artifacts, physical objects, pictures and movies; or

(ii) To aid in the education of the public by means of interactive displays or stations, learning laboratories, and classroom areas for instruction in the physical sciences, natural history or other educational disciplines;

(3) “Bed and breakfast establishment” has the same meaning as set forth in § 68-14-502(1)(A); provided, that such bed and breakfast establishment is located in a county having a population of not less than fifty-one thousand three hundred fifty (51,350) nor more than fifty-one thousand four hundred fifty (51,450), according to the 1990 federal census or any subsequent federal census and has eleven (11) furnished guest rooms;

(4) “Bona fide charitable or nonprofit organization” means any corporation which has been recognized as exempt from federal taxes under § 501(c) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c), or any organization having been in existence for at least two (2) consecutive years which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational or charitable purposes;

(5) “Bona fide political organization” means any political campaign committee as defined in § 2-10-102 or any political party as defined in § 2-13-101;

(6) “Caterer” means a business engaged in offering food and beverage service for a fee at various locations, which:

(A) Operates a permanent catering hall on an exclusive basis or restaurant;

(B) Has a complete and adequate commercial kitchen facility; and

(C) Is licensed as a caterer by the Tennessee department of health;

(7) “Civic arts center” means a complex that serves as a community center for the arts and further possesses the following characteristics:

(A) Has a performance hall with at least one thousand one hundred (1,100) seats;

(B) Has a flexible theater;

(C) Consists of two (2) buildings and an outdoor plaza between the buildings;

(D) Allows alcoholic beverages to be served when the civic arts center is hosting ticketed events, private functions or is rented to another party hosting an event open to the public; and

(E) Is located in a county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census;

(8)(A) “Club” means a nonprofit association organized and existing under the laws of the state of Tennessee, which has been in existence and operating as a nonprofit association for at least two (2) years prior to the application for a license hereunder, having at least one hundred (100) members regularly paying dues, organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any shareholder or member; and owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of employees for
cooking, preparing and serving meals for its members and guests; provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors, wines, champagnes or malt beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The premises, as provided in § 57-4-101(a)(2) for a club, shall also include the golf course, tennis courts and the area immediately surrounding the swimming pool, if a club offers such amenities. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with the definition above;

(B) “Club” also means an organization composed of members of the Tennessee national guard, air national guard, or other active or reserve military units which operate facilities located on land owned or leased by the state of Tennessee and which are operated exclusively for the pleasure and recreation of such organization’s members, dependents and guests and which are generally referred to as “NCO Clubs” or “Officers Clubs.” Such NCO or officers clubs shall be subject to all of the requirements of subdivision (8)(A), except for those requirements relating to having a kitchen, kitchen equipment, and employees;

(C) “Club” also means a nonprofit association organized and existing under the laws of the state of Tennessee which is located in a county having a population of not less than twenty-eight thousand six hundred sixty (28,660) nor more than twenty-eight thousand six hundred ninety (28,690), according to the 1980 federal census or any subsequent federal census. Such club shall be located in a development containing no less than four hundred forty (440) acres and shall be organized and operated exclusively for the pleasure, recreation and other nonprofit purposes of its members and their guests. No part of the net earnings of the association shall inure to the benefit of any shareholder or member. The club shall provide to its members a regulation golf course, tennis courts, and a swimming pool. The club shall own, hire or lease a building or buildings for the reasonable use of its members with suitable kitchen and dining room space and equipment. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests. No member or officer, agent or employee of the club shall be paid, or directly or indirectly receive in the form of salary or other compensation any profits from the sale of alcoholic beverage or malt beverage beyond the amount of such salary as may be fixed by its members at an annual meeting, or by its governing body out of the general revenues of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition;

(D)(i) “Club” also means a for-profit recreational club organized and existing under the laws of the state of Tennessee and which has been in
existence and operating for at least two (2) years prior to the application for a license. Such club shall have at least one hundred (100) members regularly paying dues, and shall be organized and operated exclusively for recreation, and providing to its members a regulation golf course and owning, hiring or leasing a building or buildings for the reasonable use of its members, with suitable kitchen and dining room space and equipment, and lodging facilities consisting of not less than ten (10) rooms. Such club shall maintain and use a sufficient number of employees for cooking, preparing and serving meals for its members and guests and providing lodging facilities to its members and guests. Other than the payment of dividends to the shareholders of the club from its net income derived from all of its operations, no member or officer, agent or employee of the club shall be paid, or shall directly or indirectly receive in the form of salary or other compensation, any profits from the sale of alcoholic beverages or malt beverages beyond the amount of such salary as may be fixed by the shareholders of the corporation at an annual meeting by its governing body out of the general revenues of the club. For the purpose of this section, tips which are added to the bills under club regulations shall not be considered as profits hereunder. The alcoholic beverage commission shall have specific authority through rules and regulations to define with specificity the terms used herein and to impose additional requirements upon applicants seeking a club license not inconsistent with this definition. The alcoholic beverage commission shall not issue a license to any for-profit recreational club which restricts membership based on race or religion or sex. In any proceeding concerning a license denial or revocation under this subdivision (8)(D)(i), no quota or numerical percentage shall be used to establish proof of the prohibited discrimination among the club’s membership;

(ii) Notwithstanding § 57-4-101(a)(2) to the contrary, this subdivision (8)(D) shall not apply in any municipality which has not approved the sale of alcoholic beverages for consumption on the premises pursuant to § 57-4-103;

(iii) This subdivision (8)(D) only applies in counties having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;

(E)(i) “Club” also means a for-profit recreational club, organized and existing under the laws of the State of Tennessee, which has at least two hundred fifty (250) dues-paying members who pay dues of at least one hundred dollars ($100) a year. Such club shall have golf courses containing at least twenty-seven (27) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin;
(ii) This subdivision (8)(E) only applies in counties having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), according to the 1990 federal census or any subsequent federal census;

(F)(i) (a) “Club” also means a for-profit recreational club, organized and existing under the laws of the state of Tennessee, which has at least two hundred twenty-five (225) dues-paying members who pay dues of at least three hundred dollars ($300) a year. Such club shall have a clubhouse with not less than five thousand square feet (5,000 sq. ft.), golf courses containing at least eighteen (18) holes, collectively, for the use of its members and guests, and have suitable kitchen and dining facilities. Such club shall serve at least one (1) meal daily, five (5) days a week. Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold. Such club shall not discriminate against any patron or potential member on the basis of gender, race, religion or national origin. It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced in such clubs;

(b) The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities;

(ii) This subdivision (8)(F) only applies in any county having a population of:

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according to the 1990 federal census or any subsequent federal census;

(G) “Club” also means a clubhouse owned and operated by a for-profit corporation, which is open to the public but has at least one hundred fifty (150) private members and seats at least one hundred (100) persons, that is a planned part of a residential development consisting of no less than two hundred fifty (250) acres and at least one hundred ninety (190) residential units, and such development contains an eighteen-hole golf course under separate ownership; provided, that such club is located in a county having a population of not less than one hundred three thousand one hundred (103,100) nor more than one hundred three thousand four hundred (103,400), according to the 1990 federal census or any subsequent federal census and in a municipality which lies within two (2) contiguous counties;

(H) “Club” also means a facility owned by a for-profit corporation incorporated in Tennessee prior to September 30, 2000, as a private club
which does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin, and further possesses the following characteristics:

(i) Is located within three (3) miles of a municipal golf course owned and operated by a home-rule municipality located in a county having a charter form of government and having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eighty-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(ii) Has, on July 3, 2002, a minimum of three hundred (300) members paying annual dues with a copy of membership applications on file on the premises, and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member; and

(iii) Has a kitchen and dining area having a minimum seating capacity of seventy-five (75) in a building having at least eighteen hundred square feet (1800 sq. ft.);

(I)(i) “Club” also means a for-profit recreational club organized and existing under the laws of the state of Tennessee which has been in existence and operating for at least two (2) years prior to June 11, 2003, and which is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least one hundred seventy-five (175) members paying annual dues and does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, religion or national origin;

(b) Is organized and operated exclusively for recreation and providing a regulation eighteen-hole golf course for the use of its members and guests, and also offers for the use of its members and guests a swimming pool and tennis facility; and

(c) Has a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;

(ii) Such club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based upon the volume of such beverages sold;

(iii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by such club;

(J) “Club” also means a for-profit recreational club, organized and existing under the laws of the state of Tennessee, which is located in any county having a population of not less than one hundred thirty thousand (130,000) nor more than one hundred thirty-one thousand (131,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:

(i) The club shall be adjacent to a residential development consisting of at least one hundred (100) residential units, and the club property and such residential development shall consist of at least two hundred
(200) acres;
(ii) The residential development shall be adjacent to a lake with an area greater than twenty (20) acres;
(iii) The club shall be organized and operated to provide to its members, their guests, and others an eighteen-hole golf course and amenities provided by other similar clubs;
(iv) The club shall serve at least one (1) meal daily, five (5) days a week;
(v) The club shall have a clubhouse with not less than three thousand square feet (3,000 sq. ft.) with suitable kitchen, dining facilities and equipment; and
(vi) The club shall not discriminate against any person on the basis of gender, race, religion or national origin;
(K)(i) “Club” also means a for-profit recreational club organized and existing under the laws of this state that has been in existence and operating for at least two (2) years prior to March 31, 2003, and that is located in any county not having a metropolitan form of government and having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, and further possesses the following characteristics:
   (a) Has at least two hundred twenty-five (225) members paying monthly or annual dues, or both, and does not discriminate against members or potential members or bona fide guests of the members on the basis of gender, race, religion or national origin;
   (b) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and may or may not also provide for the use of its members and guests a swimming pool and tennis facility; and
   (c) Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with suitable kitchen, dining facilities and equipment, serving at least one (1) meal daily, at least five (5) days a week;
   (d) The club may not compensate or pay any officer, director, agent or employee any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold;
(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;
(L)(i) “Club” also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), as of the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:
   (a) Has at least three hundred (300) members, as of December 23, 2015, paying dues with a copy of membership applications on file on the premises and which issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member;
   (b) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer for the use of its members and guests
a swimming pool and other recreational amenities;

(c) Has a clubhouse with not less than ten thousand square feet (10,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

(d) The club may not compensate or pay any officer, director, agent, or employee any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold; and

(e) The premises, as provided in § 57-4-101(a)(2) for a club, whether such parcels comprising the club premises are contiguous or not, shall also include the golf course, including beverage carts; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

(f) Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, or national origin;

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(M) the “Club” also means a for-profit recreational club, organized and existing under the laws of this state, which is located in a county having a population of not less than one hundred twenty-two thousand nine hundred (122,900) nor more than one hundred twenty-three thousand (123,000), according to the 2010 federal census or any subsequent federal census, and further possesses the following characteristics:

(a) Has at least three hundred (300) members, as of January 1, 2017, paying dues with a copy of membership applications on file on the premises and that issues to its members a membership card which authorizes admittance of the member and bona fide guests of such member;

(b) Is located within a planned residential development consisting of no less than six hundred (600) acres and at least three hundred (300) residential dwelling units, and such residential development contains an eighteen-hole golf course;

(c) Is organized and operated exclusively for recreation and provides a regulation eighteen-hole golf course for the use of its members and guests, and also may offer its members and guests the use of a swimming pool, tennis courts, and other recreational amenities;

(d) Has a clubhouse with not less than nine thousand square feet (9,000 sq. ft.) with a suitable kitchen, dining facilities, and equipment, serving at least one (1) meal daily at least five (5) days a week;

(e) The club does not compensate or pay any officer, director, agent, or employee from any profits from the sale of alcoholic or malt beverages based on the volume of those beverages sold;

(f) The premises, as provided in § 57-4-101(a)(2), for a club, whether such parcel comprising the club premises are contiguous or not, shall also include the golf course; tennis courts; all areas of the clubhouse; the area immediately surrounding the swimming pool, if a club offers such amenities; and all other related recreational facilities; and

(g) Does not discriminate against members or potential members or bona fide guests of such members on the basis of gender, race, color,
age, religion, or national origin; and

(ii) It is the express intention of the general assembly that the law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age be strictly enforced by the club;

(9) “Commercial airline” includes any airline operating in interstate commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, or under an exemption from the requirement of obtaining a certificate of public convenience and necessity but otherwise regulated by an appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular schedules, or charter trips, while moving through any county of the state, but not while any such commercial airline is stopped in a county or municipality that has not legalized such sales;

(10) “Commercial airline travel club” means an organization established and operated by or for a commercial airline as defined in this section for the convenience and comfort of airline passengers;

(11) “Commercial passenger boat company” means a company that operates one (1) or more passenger vessels for hire upon navigable waterways and is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel. Such company shall operate out of any county that has a population in excess of two hundred eighty-five thousand (285,000) or not less than eighty-three thousand three hundred (83,300) nor more than eighty-three thousand four hundred (83,400), according to the 1980 federal census or any subsequent federal census. No commercial passenger boat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such boat is docked within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;

(12) “Commission” means the alcoholic beverage commission, created pursuant to chapter 1 of this title;

(13)(A) “Community theater” means a facility or theater possessing each of the following characteristics:

(i) The community theater is at least eight (8) years old;

(ii) The theater is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the community theater, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the theater. No alcoholic beverages or beverages of any kind shall be possessed or consumed inside the auditorium of such theater during performances in such auditorium;

(iii) The theater provides or leases facilities for theatrical programs of cultural, civic and educational interest; and
(iv) The theater is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) “Community theater” also includes a facility or theater possessing each of the following characteristics:

(i) The facility has a performance hall seating not less than two hundred fifty (250) persons, a resource library, rehearsal rooms, and permanent exhibition space of not less than nine thousand square feet (9,000 sq. ft.);

(ii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), as amended, where no member or officer, agent or employee of any community theater shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the facility, and in furtherance of the purposes of the organization;

(iii) The facility provides or leases facilities for concerts and programs of cultural, civic and educational interest; and

(iv) The facility is located in any county having a population of not less than two hundred eighty-five thousand (285,000) nor more than two hundred eighty-six thousand (286,000), according to the 1990 federal census or any subsequent federal census;

(C) Alcoholic beverages may be sold at a community theater only during one (1) performance or benefit program a day and only one (1) hour before, during and one (1) hour after the performance or benefit program;

(D) “Community theater” also includes a facility or theater possessing each of the following characteristics:

(i) The facility is located in a building that is at least eighty (80) years old;

(ii) The facility has a performance hall seating approximately two hundred fifty (250) persons;

(iii) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), and no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person’s assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization;

(iv) Alcoholic beverages shall only be sold before or after performances or during intermissions in the performances, and no alcoholic beverages shall be consumed inside the auditorium of the facility; and

(v) The facility is located within a municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a
referendum in the manner prescribed by § 57-3-106, in any county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(E) “Community theater” also includes a privately owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1943;
(ii) Is primarily a volunteer organization with limited salaried staff;
(iii) Has an auditorium with more than three hundred (300) seats;
(iv) Is located on an historic square and is allowed to sell alcoholic beverages at up to five (5) special events annually that are held on the historic square along with being allowed to sell alcoholic beverages as provided in subdivision (13)(C); and
(v) Is located in any county having a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), according to the 2000 federal census or any subsequent federal census;

(F) “Community theater” also includes a facility or theater possessing each of the following characteristics:

(i) The facility is at least twenty-seven (27) years old;
(ii) The facility has a performance hall seating not less than one hundred fifty (150) persons and not more than five hundred (500) persons;
(iii) The facility is operated by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), as amended, where no member or officer, agent or employee of any community theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person’s assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation, renovation, refurbishing and maintenance of the facility, and in furtherance of the purposes of the organization; and
(iv) The facility is located in any county having a population of not less than one hundred thirty-four thousand seven hundred (134,700) nor more than one hundred thirty-four thousand eight hundred (134,800), according to the 2000 federal census or any subsequent federal census;

(G) “Community theater” also includes a municipally owned facility possessing each of the following characteristics:

(i) Is a community theater in continuous operation since 1980;
(ii) Has an auditorium with more than three hundred (300) seats;
(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and education interest; and
(iv) The facility is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any
subsequent federal census;

(H) “Community theater” also means a theater possessing each of the following characteristics:
   (i) The theater was founded in 1923;
   (ii) The theater has a main performance hall with not less than three hundred eighty (380) seats;
   (iii) The theater has an auxiliary performance hall with not less than two hundred (200) seats;
   (iv) The facility is operated by a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member, officer, agent, or employee of the theater is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of the salary as may be fixed by its governing body for the reasonable performance of the person’s assigned duties. All profits from the sale of alcoholic beverages by the not-for-profit corporation must be used for the operation, renovation, refurbishing, and maintenance of the theater, and in furtherance of the purposes of the organization. Alcoholic beverages may be sold before, during, and after performances, and may be consumed inside any auditorium or performance hall within the theater; and
   (v) The theater is located within one thousand feet (1,000’) of the Tennessee River in a city with a population of one hundred sixty-seven thousand six hundred seventy-four (167,674), according to the 2010 federal census or any subsequent federal census;

(14)(A) “Convention center” means a facility possessing each of the following characteristics:
   (i) Owned by the state, municipal and/or county government, or a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, and leased or operated by that government or by a nonprofit charitable corporation established to operate such facility;
   (ii) Designed and used for the purposes of holding meetings, conventions, trade shows, classes, dances, banquets and various artistic, musical or other cultural events;
      (a) A convention center does not include a building located within one thousand (1,000) yards of both a student museum and a zoological park; provided, that any restaurant, located within a former world’s fair site or a zoological park and which meets the requirements of subdivision (29), shall be eligible for licensure under this chapter as long as the requirements of this chapter are otherwise met;
      (b) A convention center also does not include a building which is more than twenty (20) years old and is located in any county having a population of not less than two hundred eighty-seven thousand seven hundred (287,700) nor more than two hundred eighty-seven thousand eight hundred (287,800), according to the 1980 federal census or any subsequent federal census;
   (iii)(a) Except as provided for in (14)(A)(ii)(b), which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, has a designated, restricted area outside the seating area of any theater within which area the consumption of such alcoholic beverages shall be permitted. The sale of such alcoholic
beverages in such facility is limited to no more than one (1) hour and fifteen (15) minutes prior to a meeting, show, performance, reception, or other similar event, and to no later than thirty (30) minutes after such event; and

(b) In a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, which state-owned facility, operated by a nonprofit charitable corporation established to operate such facility, or facility owned by a nonprofit, tax exempt, charitable organization that operates a symphony orchestra, has designated an area within or adjacent to any theatre or meeting space, or adjacent to the facility within which area the consumption of alcoholic beverages shall be permitted. Nothing herein shall restrict the ability of a convention center, as defined herein, from adjusting the designated area within or adjacent to its theatre areas, upon adequate prior notice to the commission;

(iv) Located in a municipality having a population in excess of one hundred fifty thousand (150,000) and in a county having a population in excess of two hundred thousand (200,000), or both, according to the 1980 federal census or any subsequent federal census;

(v) A convention center licensed under this subdivision (14)(A) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of the franchise shall also be considered a convention center under this subdivision (14)(A);

(B) “Convention center” also means a facility meeting the criteria of subdivision (14)(A)(i) and (ii) and located in a premiere resort city as defined by § 67-6-103(a)(3)(B)(i); 

(C) “Convention center” also means a facility possessing each of the following characteristics:

(i) Owned by a county public building authority at the time of development;

(ii) Designed and used for the purposes of attracting conventions, business travelers, tourists and other visitors to promote economic development;

(iii) Located at the intersection of Interstate 24 and Highway 41 near mile marker 114;

(iv) Occupies an area of not less than approximately thirteen thousand five hundred square feet (13,500 sq. ft.); and

(v) Includes a full commercial kitchen to provide meals and catering services;

(D) “Convention center” also means a facility possessing each of the following characteristics:

(i) Is owned by a quasi-governmental development agency;

(ii) Is designed and used for the purposes of attracting conventions, business travelers and tourists to the area and is vital in promoting economic development, fostering community activities, providing training and seminar space for business and industries and in encouraging tourism;

(iii) Is available for community, industry and private events;

(iv) Is the only one of its kind in the area;
(v) Has a seating capacity of approximately three hundred (300) and is fully equipped with tables, chairs, linens, dishware and a catering kitchen;
(vi) Occupies an area of approximately eight thousand five hundred square feet (8,500 sq. ft.) on acreage surrounding Tellico Lake; and
(vii) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census; and
(E) No member or officer, agent or employee of any convention center as defined by this section shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of spirituous liquors, wines, champagnes, malt beverages or any other alcoholic beverage beyond the amount of such salary as may be fixed by its governing body out of the general revenue of the center. All profits from the sale of such alcoholic beverages shall be used for the operation and maintenance of the convention center;
(15) “Country club located on an historic property” means a country club that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:
(A) Sits on real property that was formerly the home of the International Printing Pressmen Union;
(B) Has a dining facility; and
(C) Is located adjacent to an eighteen-hole golf course;
(16)(A) “Historic inn” means a historic building that is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-five thousand (45,000), according to the 1990 federal census or any subsequent federal census, and has the following characteristics:
(i) Was built in 1824 and was formerly the oldest continuously operating inn in Tennessee;
(ii) Was once visited by United States Presidents Andrew Jackson, Andrew Johnson and James K. Polk, all of whom stayed and dined there; and
(iii) Has a dining facility and a total of nine (9) rooms and suites;
(B) “Historic inn” also means a country inn that is located in any county having a population of not less than seventy-one thousand one hundred (71,100) nor more than seventy-one thousand two hundred (71,200), according to the 2000 federal census or any subsequent federal census, and has the following characteristics:
(i) Has been in operation since 1938;
(ii) Is located within one half (½) mile of the Great Smoky Mountains National Park;
(iii) Has a total of twenty-four (24) guest rooms and a dining facility offering fine dining to guests and other patrons with a seating capacity of no more than sixty (60); and
(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(C) “Historic inn” also means an inn that has all of the following
characteristics:
(i) Contains at least ten (10) transient guest rooms in the main house;
(ii) Has a separate meeting lodge and facility that also houses at least four (4) transient suites;
(iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;
(iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;
(v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;
(vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry;
(vii) Is located in any county having a population of not less than one hundred five thousand eight hundred (105,800) nor more than one hundred five thousand nine hundred (105,900), according to the 2000 federal census or any subsequent federal census; and
(viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

17(A) “Historic interpretive center” means a facility possessing each of the following characteristics:
(i) The center is located in an historic area of town where structures listed on the national register of historic places are located;
(ii) The center operates as a not-for-profit corporation that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic interpretive center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of the assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic interpretive center, and in furtherance of the purposes of the organization. Alcoholic beverages may be consumed inside the center at locations designated by the board of the not-for-profit corporation;
(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, musical concerts, films, receptions, exhibitions, seminars or meetings; and
(iv) The center is located in any county having a population of not less than seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) “Historic interpretive center” also means a commercially operated facility owned by a not-for-profit organization possessing each of the following characteristics:
(i) Is located on the Cumberland Plateau, within one (1) mile of a national river and recreation area;
(ii) Offers historic interpretation of Victorian-era British architecture, lifestyle, and settlement on the Cumberland Plateau in the 1880s and thereafter;
(iii) Operates public education programs in multiple historic buildings built from 1880 to 1884, including the oldest unchanged and
preserved public library in America;

(iv) Preserves the historic character of a British settlement on the Cumberland Plateau in the 1880s through a board of directors engaged in land acquisition and management, design review of new construction and renovation, and the public enjoyment of period crafts, music, and folklife through the organization of festivals, support for local artists through the sale of arts and crafts in a commissary;

(v) Owns, sells, and develops home sites for construction of design-approved homes;

(vi) Offers overnight accommodations to visitors in historic inn and cottage settings;

(vii) Operates a restaurant serving breakfast, lunch, and dinner to visitors, community residents, guests, and members of the public;

(viii) Attracts thousands of visitors annually from around the world;

(ix) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(x) Is located within any county having a population of not less than nineteen thousand five hundred (19,500) nor more than nineteen thousand seven hundred seventy five (19,775), according to the 2000 federal census or any subsequent federal census;

(C) “Historic interpretive center” also means a facility possessing each of the following characteristics:

(i) Was founded in 1983;

(ii) Is located on Martin Luther King Boulevard;

(iii) Provides programs of historical, cultural, civic, and educational interest, including, but not limited to, art exhibitions and musical concerts;

(iv) Is owned by a municipal or county government;

(v) Alcoholic beverages shall only be sold at the center before or during performances; and

(vi) Is located in any county having a population of not less than three hundred thirty-six thousand five hundred (336,400) nor more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census;

(18) “Historic mansion house site” means the buildings and grounds of a historic mansion house, located in any county having a metropolitan form of government, included in the Tennessee register of historic places, and operated by the Association for the Preservation of Tennessee Antiquities, and including Association for the Preservation of Tennessee Antiquities sites owned by the state of Tennessee. “Historic mansion house site” also means the buildings and grounds of an historic mansion house located in any county having a metropolitan form of government which has been conveyed by the state of Tennessee in trust to a board of trustees created and appointed in accordance with §§ 4-13-103 and 4-13-104, and for admission to which reasonable fees are charged as provided in § 4-13-105. This subdivision (18) shall apply only to counties having a population of four hundred fifty thousand (450,000) or greater, according to the 1980 federal census or any subsequent census;

(19)(A) “Historic performing arts center” means a facility possessing each of the following characteristics:

(i) The center is located in a restored theater that is at least fifty (50)
years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population of:

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according to the 1980 federal census or any subsequent federal census;

(B) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) The center is located in a restored theater or music hall that is at least fifty (50) years old and listed on the national register of historic places;

(ii) The center is operated by a for-profit organization, or a not-for-profit organization that is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), as amended, and where no member, officer, agent or employee of the not-for-profit organization receives any incentive compensation relating directly to the sale of alcoholic beverages beyond the amount of such salary and other compensation as may be fixed by the not-for-profit organization’s governing body for the reasonable performance of such member’s, officer’s, agent’s or employee’s assigned duties. A portion of the profits from the sale of alcoholic beverages at the center shall be used for the operation, renovation, refurbishing or general maintenance of the center. Alcoholic beverages shall only be sold at the center before, during or after performances. Alcoholic beverages may be consumed inside the center at locations designated by its governing body;

(iii) The center provides facilities for programs of cultural, civic, and educational interest, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars or meetings; and

(iv) The center is located in any county having a population in excess of five hundred thousand (500,000), which has a metropolitan form of
government;

(C) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) Was opened in 1921;
(ii) Is on the national register of historic places;
(iii) Is located on Broad Street;
(iv) Provides programs of cultural, civic, and educational interest, including, but not limited to, operas and musical concerts;
(v) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances; and
(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(D) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) Was opened in 1924;
(ii) Was originally designed as a municipal auditorium and all-purpose exhibition hall;
(iii) Is located on McCallie Avenue;
(iv) Is owned by a municipal or county government, or nonprofit, tax exempt, charitable organization. Alcoholic beverages shall only be sold at the center before, during or after performances;
(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and
(vi) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(E) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) Is on the national register of historic places;
(ii) Was built in 1937;
(iii) Is located on Main Street;
(iv) Is an entertainment venue for live performances, movies and other events. Alcoholic beverages shall only be sold at the center before, during or after the performances, movies or other events; and
(v) Is located in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(F) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) Was built in 1931;
(ii) Is on the national register of historic places;
(iii) Is maintained by a not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954, codified in 26 U.S.C. § 501(c), as amended;
(iv) Has an auditorium that seats more than seven hundred fifty (750) people;
(v) Provides programs of cultural, civic, and educational interest, including, but not limited to, stage plays and musical concerts; and

(vi) Is located in any county having a population of not less than one hundred fifty-three thousand (153,000) nor more than one hundred fifty-three thousand one hundred (153,100), according to the 2000 federal census or any subsequent federal census;

(G) “Historic performing arts center” also means a facility possessing each of the following characteristics:

(i) The center:
   (a) Is located adjacent to a restored theater that is at least fifty (50) years old and listed on the national register of historic places; and
   (b) Shares a plaza with such restored theater;

(ii) The center is operated by a for-profit corporation, or not-for-profit corporation which is exempt from taxation under § 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)), as amended, where no member or officer, agent or employee of any historic performing arts center shall be paid, or directly or indirectly receive, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its governing body for the reasonable performance of their assigned duties. All profits from the sale of alcoholic beverages by a not-for-profit corporation shall be used for the operation and maintenance of the historic performing arts center, and in furtherance of the purposes of the organization. All profits from the sale of alcoholic beverages by a for-profit corporation shall be used for the operation, renovation, refurbishing, and maintenance of the center. Alcoholic beverages may be sold before, during, and after events or during intermissions in such events;

(iii) The center provides facilities for programs of cultural, civic, and educational interest to further the mission of the for-profit or not-for-profit corporation, including, but not limited to, stage plays, musical concerts, films, dance performances, receptions, exhibitions, seminars, or meetings; and

(iv) The center is located in a county having a population of more than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(20)(A) “Hotel” (Motel) means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, in which twenty (20) or more rooms are used for the sleeping accommodations of such guests and having one (1) or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least fifty (50) at tables, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises and the holder of such franchise shall be included in the definition of “hotel” hereunder; and property contiguous to a hotel, except
property located in any county having a population of not less than seventy-seven thousand seven hundred fifty (77,750) nor more than seventy-seven thousand seven hundred ninety (77,790), according to the 1980 federal census or any subsequent federal census, which is owned by the same entity as the hotel and operated by the same entity as the hotel, which property either serves travelers and guests other than as a separate commercial establishment or is operated as a major entertainment complex serving in excess of one million (1,000,000) persons per year;

(B) “Hotel” also means and includes all entities previously described wherein sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which thirty (30) or more suites are used for sleeping accommodations of such guests and having eating facilities in each room for four (4) or more persons with an adequate and sanitary central kitchen from which meals are regularly prepared and served to guests in such suites. For the purpose of this section, “suite” is defined as a guest facility within a hotel where living, sleeping and dining are regularly provided for such guests within the individual units provided for guests. No such hotel or suite as defined in this subdivision (20)(B) shall be authorized to charge for, inhibit or otherwise interfere in any way with the rights of its guests or tenants to carry into rooms or suites rented by them their own bottles, packages or other containers of alcoholic beverages and/or to use or serve them to themselves, their own visitors or guests within the individual units rented or leased by them;

(C) “Hotel” also includes facilities owned and operated by an individual or event-management organization which plans and coordinates all phases of any function for retreats by groups of persons having similar backgrounds or purposes, and which offers meeting and banquet facilities, dining services, recreation and leisure activities in facilities which include a dining inn with seating capacity of three hundred (300), and a complex which includes meeting and banquet facilities with a seating capacity of two hundred (200), overnight accommodations for at least forty (40), and a fifty (50) acre tract of land with picnic accommodations for at least four thousand (4,000), and a facility with seating capacity of four hundred (400). The scope of any license authorized by this subdivision (20)(C) includes picnic service on the grounds of the complex owned and operated by the licensee;

(D) “Hotel” also includes a residence hotel located in the central business district of any municipality having a population of more than three hundred thousand (300,000), according to the 1990 federal census or any subsequent federal census and having a common smoking room and lobby area;

(E)(i) “Hotel” also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. The premises upon which such establishment is located shall be within the boundaries of a clearly defined arts district which is owned and operated by the same entity and having a common courtyard which is contiguous to all buildings and structures on the premises. The dining facilities, including beverages, may be served from an adequate and sanitary central
kitchen and storage facility;

(ii) This subdivision (20)(E) applies in any municipality having a population in excess of one hundred fifty thousand (150,000), according to the 1990 federal census or any subsequent federal census;

(F)(i) “Hotel” also includes a bed and breakfast establishment as defined in § 68-14-502, where meals are regularly served to guests and where sleeping accommodations and dining facilities being conducted in the same buildings or structures used in connection therewith are on the same premises and are part of the hotel operation. In such establishment there must be two (2) rooms for sleeping accommodations and a seating capacity of twenty-five (25) people at tables. The premises upon which such establishment is located shall have a business conference center;

(ii) Subdivision (20)(F)(i) applies in any county having a population of not less than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census;

(iii) “Hotel” also includes a facility located in a county which contains a population of not less than eighty-five thousand nine hundred (85,900) nor more than eighty-six thousand one hundred sixty (86,160), according to the 1990 federal census or any subsequent census, which facility contains the following characteristics:

(a) Contains at least forty (40) rooms for guest sleeping accommodations offered for adequate pay to travelers and guests;

(b) Contains at least three (3) separate dining rooms with adequate sanitary kitchen facilities, either common or separate, where meals are regularly served to guests;

(c) Is located on real property of at least one thousand fifty (1,050) acres, notwithstanding that such real property is not contiguous and may be divided by a public or private road;

(d) Contains a swimming pool, hiking trails, and biking trails for use by registered guests;

(e) Has access to the Double Branch Creek and tributaries, notwithstanding that such creek and tributaries are not contiguous and may be divided by a public or private road;

(f) Has at least two thousand seven hundred sixteen (2,716) acres of land that has been placed in conservation easement;

(g) Provides a full service spa for use by registered guests of the facility;

(h) Any such hotel whose facilities are located on the premises of an area meeting the definition of a hotel under this subdivision (20)(F)(iii) may exercise the privileges authorized under this chapter anywhere within that area, and, in addition, may exercise the privilege authorized under this chapter on any location identified to the commission and held out to the public as part of such hotel property irrespective of the actual owner of the location, where the hotel is authorized by written contract or lease to provide hotel or resort services by the owner of such location; and

(i) Notwithstanding this title or any rule to the contrary, a hotel under this subdivision (20)(F)(iii) shall be able to:

(1) Hold a manufacturer’s license under § 57-3-202 or a non-manufacturer nonresident seller’s permit under § 57-3-602(c) or both, and such license or permit may be for facilities on or off the
hotel premises;

(2) Offer tastings, with or without charge, and sell sealed bottles in a tasting room or a gift shop on the hotel premises of product manufactured pursuant to the license or permit in subdivision (20)(F)(iii)(i)(1), as long as such tastings and sealed bottles are offered only to guests of the hotel, as defined in this section, and private owners of homes on the hotel property and are not offered anywhere except in the tasting room and the gift shops;

(3) Sell beer and alcoholic beverages by the drink for on-premises consumption anywhere on the hotel premises, except for the tasting room and the gift shops; and

(4) Only sell at retail or provide samples of product that it has obtained from a wholesaler licensed under § 57-3-203, and such wholesaler shall remit all taxes imposed under §§ 57-3-302 and 57-3-501, which shall be collected from the hotel based upon its retail sales, and § 57-6-201. For products acquired from a wholesaler by a hotel under this subdivision (20)(F)(iii) that are manufactured by the hotel, the wholesaler may permit the hotel to deliver its products to the location on its premises where such retail sales and samples will be effected, provided the wholesaler permitting such direct shipment must include the amounts delivered in its inventory and depletions for purposes of tax collections;

(j) A hotel under this subdivision (20)(F)(iii) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(G)(i) “Hotel” also includes a facility that possesses the following characteristics:

(a) Was built in 1917;
(b) Is listed on the National Register of Historic Places;
(c) Has at least twelve (12) rooms for guest sleeping accommodations with at least one (1) room being handicap accessible;
(d) Has a dining area that seats at least one hundred sixty (160) people;
(e) Has a music and entertainment venue that is at least two thousand nine hundred square feet (2,900 sq. ft.);
(f) Has a two-acre meadow suitable for wedding ceremonies and other events; and
(g) Is located in any county having a population of not less than thirty-seven thousand five hundred (37,500) nor more than thirty-seven thousand six hundred (37,600), according to the 2000 federal census or any subsequent federal census.

(ii) A hotel under this subdivision (20)(G) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(H)(i) “Hotel” also means a facility that possesses all of the following characteristics:

(a) Offers to the public:

(1) At least thirty (30) rooms for the sleeping accommodations of guests for adequate pay; and
(2) A dining room;
(b) Is owned by and located on the campus of a private institution of higher education located on at least ten thousand (10,000) acres;
and

(c) Is located in any county having a population of not less than thirty-nine thousand two hundred (39,200) nor more than thirty-nine thousand three hundred (39,300), according to the 2000 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (20)(H) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(I)(i) "Hotel" also includes a facility that possesses the following characteristics:

(a) Is located in a building on which construction began prior to 1940;

(b) Is located approximately twenty-two (22) miles south of Interstate 40 on U.S. Highway 412;

(c) Is fronted on the north side by U.S. Highway 412 and is less than one (1) mile from a scenic river as defined in title 11, chapter 13;

(d) Has at least twelve (12) rooms for guest sleeping accommodations;

(e) Has a separate room for conferences or meetings;

(f) Has at least a forty-seat dining area that has been approved by the local health department and that serves meals at least four (4) days a week, with exceptions of closures for private groups or events, seasonal closures, vacations, and periods of general maintenance or remodeling by the owners;

(g) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(h) Is located in any county having a population of not less than seven thousand nine hundred one (7,901) nor more than eight thousand (8,000), according to the 2010 federal census or any subsequent federal census;

(ii) A hotel under this subdivision (20)(I) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103;

(21) “Limited service restaurant” means a facility possessing each of the following characteristics:

(A) Is a public place which has a seating capacity for at least forty (40) patrons and that is kept, used, maintained, advertised and held out to the public as a place where during regular hours of operation:

(i) Alcoholic beverages, beer or wine are served to patrons;

(ii) A menu of prepared food is made available to patrons;

(iii) The gross revenue from the sale of prepared food is fifty percent (50%) or less than the gross revenue from the sale of alcoholic beverages; provided, however, that gross revenue of more than fifty percent (50%) from the sale of prepared food shall not prevent a facility from receiving a “limited service restaurant” license or subject such facility to a fine from the commission for having gross revenue of more than fifty percent (50%) from the sale of prepared food. For purposes of determining the gross revenue from the sale of prepared food, chips, popcorn, pretzels, peanuts and similar snack items shall not be included in gross revenue from the sale of prepared food sold;

(iv) The facility affirmatively establishes, to the satisfaction of the commission, that it has complied and will comply with the requirements
(v) The facility provides adequate security during the regular hours of operation; and

(vi) Sleeping accommodations are not provided;

(B) Is located within the jurisdictional boundaries of a political subdivision which has authorized the sale of alcoholic beverages for consumption on the premises as provided in § 57-4-103; and

(C) Is located in an area which is properly zoned for facilities authorized to sell alcoholic beverages for consumption on the premises;

(22)(A) “Motor speedway” means a motor sports facility that possesses the following characteristics:

(i) Is located in a county having a population of not less than sixty-seven thousand six hundred (67,600) nor more than sixty-seven thousand nine hundred (67,900), according to the 1990 federal census or any subsequent federal census, and at least one (1) municipality located in such county has adopted liquor by the drink;

(ii) Contains a 1.33 mile superspeedway;

(iii) Is situated on a site of at least five hundred (500) acres; and

(iv) Has a seating capacity of fifty thousand (50,000) with the capability to expand to one hundred fifty thousand (150,000) grandstand seats and one hundred (100) luxury skyboxes;

(B) “Motor speedway” also means a motor sports facility that possesses the following characteristics:

(i) Is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(ii) Contains a three-quarter-mile oval track with a seating capacity of sixteen thousand (16,000) seats; and

(iii) Contains a one-quarter-mile drag strip with a seating capacity of fifteen thousand (15,000) seats;

(23)(A) “Museum” means a building or institution serving as a repository of natural, scientific or literary curiosities or works of art for public display and further possesses the following characteristics:

(i) The museum is at least fifty (50) years old; and

(ii) The museum is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census;

(B) “Museum” also means an “art museum” which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:

(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization which has been in existence for at least twenty-five (25) years;

(ii) The art museum is located in a building which contains not less than fifty thousand square feet (50,000 sq. ft.); and

(iii) The art museum is located in a former world’s fair site; and

(C) “Museum” also means a building or institution serving as a repository or exhibition facility for works of art for public display and further possesses the following characteristics:

(i) The museum is owned and operated by a bona fide charitable or nonprofit organization;
(ii) The museum is located in a building which contains not less than one hundred thousand square feet (100,000 sq. ft.);
(iii) The museum is located in a building that previously served as a United States postal service facility; and
(iv) The museum is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) “Museum” also means a building or institution serving as a tribute to soul music and which houses a music academy and further possesses the following characteristics:
(i) The museum and music academy is located on the original site of a recording studio; and
(ii) The museum and music academy is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(E) “Museum” also means an “art museum” which is a building or institution serving as a repository of works of art for public display and further possesses the following characteristics:
(i) The art museum is owned and operated by a bona fide charitable or nonprofit organization;
(ii) The museum has been in existence for at least fifty (50) years;
(iii) The museum focuses on American art from the colonial period to the present day;
(iv) The museum is located in a historical mansion and a sleek contemporary building on the bluffs overlooking the Tennessee River; and
(v) The museum does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vi) The museum is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(F) “Museum” also means a building or institution dedicated to the public display, preservation, and promotion of fine metalwork and further possesses the following characteristics:
(i) The museum opened to the public in 1979;
(ii) The museum is located on at least three (3) acres overlooking the Mississippi River;
(iii) The museum features a fully operational blacksmith shop and sand-casting foundry;
(iv) The museum is owned and operated by a bona fide charitable or nonprofit organization; and
(v) The museum is located in a county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census;

(24) “Paddlewheel steamboat company” means a company that operates one (1) or more paddlewheel steamboats for hire in interstate commerce upon navigable waterways and is licensed by the United States coast guard to carry not less than one hundred (100) passengers on a single vessel, with adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of
the state; provided, however, that no paddlewheel steamboat company licensed pursuant to this chapter shall sell any type of alcoholic beverage or beer while such paddlewheel steamboat is docked within the boundaries of any local government which has not approved the sale of alcoholic beverages pursuant to § 57-4-103;

(25) “Passenger train” includes any passenger train operating in inter-state commerce under a certificate of public convenience and necessity issued by the appropriate federal or state agency, with adequate facilities and equipment for serving passengers, on regular or special schedules, or charter trips, while moving through any county of the state, but not while any such passenger train is stopped in a county or municipality that has not legalized such sales;

(26) A “premier type tourist resort” means:

(A) A commercially operated recreational facility possessing each of the following characteristics:

(i) Ownership and operation by a profit type corporation having a capitalization of not less than ten million dollars ($10,000,000);

(ii) Situated in a geographical area wholly controlled by the operator of the facility and having not less than six thousand (6,000) acres of contiguous land, not less than five thousand (5,000) acres of which is to be developed and maintained in accordance with sound ecological and environmental practices, such requirement to be subject at all times to the oversight and approval of the department of environment and conservation, which shall not less often than once a year make a written report thereof to the commission. Satisfactory compliance with this requirement and certification thereof by the department to the commission shall be a condition precedent to the issuance or renewal of the permit provided for in § 57-4-201;

(iii) Continuous maintenance of lodging accommodations consisting of not less than two hundred (200) hotel or motel rooms in a building or buildings designed for such purpose;

(iv) Continuous maintenance of facilities for the accommodation of conventions of not less than four hundred (400) persons;

(v) Maintenance within the recreational area of at least one (1) of the following types of sporting facilities:

(a) A golf course of at least eighteen (18) holes;

(b) A lake covering not less than one hundred (100) acres adapted for boating and fishing;

(c) A ski slope;

(vi) Maintenance, in addition to one (1) or more of the facilities enumerated in subdivision (26)(A)(v), of two (2) or more of the following types of recreational facilities:

(a) Area for camping;

(b) Tennis courts;

(c) Swimming pool;

(d) Trails for hiking and/or horseback riding;

(e) Equestrian center;

(vii) A twenty-four-hour per day security force approved as to adequacy by the commission;

(B) A hotel, motel or restaurant located within a municipality having a population of one thousand (1,000) or more persons, according to the
federal census of 1970 or any subsequent federal census in which at least fifty percent (50%) of the assessed valuation (as shown by the tax assessment rolls or books of the municipality) of the real estate in the municipality consists of hotels, motels, and tourist court accommodations, providing the voters of the municipality have heretofore by referendum pursuant to § 57-4-103, approved the sale of alcoholic beverages for consumption on the premises, and such referendum shall be authorized, notwithstanding the population requirements set forth in § 57-3-106. For purposes of implementation of this subdivision (26)(B), the sale of alcoholic beverages shall be limited to hotels, restaurants, and clubs as defined in this section. To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (26)(B) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed establishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;

(C)(i) A commercially operated recreational facility containing all of the following characteristics:
   (a) Ownership and operation by a profit type corporation or partnership;
   (b) Situated in a geographical area controlled by the operator of the facility, having not less than two thousand five hundred (2,500) acres of land;
   (c) Continuous maintenance of lodging accommodations consisting of not less than one hundred (100) hotel or motel rooms in a building or buildings designed for such purpose;
   (d) The maintenance of a ski slope with necessary lifts or tows for use during skiing season;
   (e) Continuous maintenance of restaurant facilities for seating at tables of not less than two hundred (200) persons, with adequate kitchen facilities; and
   (f) Located within a municipality with a population of not less than one thousand fifty (1,050) nor more than one thousand seventy-five (1,075), according to the 1980 or any subsequent census;
(ii) To ensure proper control and development of the tourist industry of such municipality, any applicant for a license under this subdivision (26)(C) shall first obtain approval from a majority of the legislative body of the municipality, which may adopt rules and regulations governing its procedure and setting forth limitations and restrictions including, but not limited to, the number and location of licensed establishments and requiring approval by the legislative body as to the good moral character of each applicant for a license;
(D) A commercially operated facility possessing each of the following characteristics:
   (i) Situated in a geographical area controlled by the operator of the facility, having not less than one hundred seventy-nine (179) acres of land;
   (ii) A public golf course of at least eighteen (18) holes with a practice green and irrigation system;
(iii) Such facility has a club house with at least five thousand square feet (5,000 sq. ft.) that can accommodate up to two hundred fifty (250) guests for events;

(iv) Has separate meeting rooms for multiple events;

(v) Has a cart barn on the property that holds no less than sixty (60) golf carts;

(vi) Such facility has a maintenance shop with at least seven thousand square feet (7,000 sq. ft.);

(vii) Is located inside of:

(a) A black bear habitat community; and

(b) A conservation community;

(viii) Surrounded by over one hundred (100) rental cabins;

(ix) At least fifty percent (50%) of the property boundaries border a national park;

(x) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(xi) Is located in any county having a population of not less than one hundred twenty-three thousand one (123,001) nor more than one hundred twenty-three thousand one hundred (123,100) according to the 2010 federal census or any subsequent federal census;

(E) A commercially operated recreational facility containing all of the following characteristics:

(i) Ownership and operation by a for-profit corporation or partnership;

(ii) Located in a geographic area managed by the operator of the facility, containing a minimum area of one hundred fifty (150) contiguous acres;

(iii) Continuous maintenance of lodging accommodations of not less than fifty (50) rooms available for guests, tourists or for business meetings located in a building or buildings designed for accommodations or business meetings;

(iv) Maintenance of lakeside marina facilities, a golf course of not less than eighteen (18) holes, and riding trails and stables on the premises;

(v) Located within a municipality with a population of not less than six thousand three hundred seventy-five (6,375) nor more than six thousand four hundred (6,400), according to the 1990 federal census or any subsequent federal census; and

(vi) Whose manager shall have been specifically approved by a majority of the legislative body of the municipality in which such licensee is located as being an individual of good moral character;

(F) A facility, whether open to the public or limited to members and guests of the development on which it is located, owned or operated, pursuant to a license by a homeowners or residential association, which facility is kept, used and maintained as a place where meals are served and where meals are actually and regularly served, with adequate and sanitary kitchen facilities and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than forty-seven thousand (47,000) nor more than forty-seven thousand five hundred (47,500), according to the 1990 federal census or any subsequent federal census;
(ii) The facility must be located on the premises of a planned, gated residential development of at least eighty (80) acres with at least nine thousand (9,000) lineal feet of water frontage on an established and designated navigable waterway; and

(iii) The facility must be located within the limits of a development which contains a marina and tennis court facilities; and

(G) A club, either for profit or not for profit, which has been in existence for two (2) consecutive years during which time it has maintained a membership of at least three thousand (3,000) members and which maintains club facilities on or adjacent to property offering recreational services available to its members, which services shall include one (1) or more of the following:

(i) Golf course with at least eighteen (18) holes;

(ii) Tennis courts;

(iii) Marina facilities with a minimum of four hundred (400) slips.

Any such club whose club facilities are located on the premises of an area meeting the definition of a “premier type tourist resort” under this section may exercise its privileges authorized under this chapter anywhere within such area;

(H) A commercially operated recreational facility, whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association or corporation and in connection with an eighteen-hole golf course, which facility is kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all of the following characteristics:

(i) The facility must be located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand seven hundred sixty (34,760), according to the 1990 federal census or any subsequent federal census;

(ii) The facility must be located in a development containing no less than four hundred twenty (420) acres and no more than four hundred fifty (450) acres;

(iii) The facility must be located within limits of a development which contains an eighteen-hole golf course;

(iv) The facility must have no less than five thousand (5,000) enclosed square feet (5,000 sq. ft.);

(v) The facility must be located no less than one half (½) mile from the right-of-way of an interstate highway; and

(vi) The facility must be located within the limits of a development which contains a lake of not less than twenty-eight (28) acres which is entirely within the limits of the development;

(I) A commercially operated recreational facility possessing each of the following characteristics:

(i)(a) Ownership and development by a for profit corporation;

(b) Situated in a geographic area controlled by such entity and having not less than twenty-five (25) contiguous acres of land which is divided by a four-lane highway;

(c) Designed to contain picnic facilities, museum buildings, retail sales areas, retail food dispensing outlets, and restaurant areas;
(d) Maintenance of a limited access area containing a former residence, a swimming pool, a handball court, and stables where no pedestrian access is allowed and all guests entering must be carried by a motor vehicle; and

(e) Location within a county having a population of not less than seven hundred seventy thousand (770,000), according to the 1990 federal census or any subsequent federal census;

(ii) “Premier type tourist resort,” as defined in this subdivision (26)(I), shall be authorized to sell or serve alcoholic beverages on the premises of such resort only at special functions, wherein attendance is limited to invited guests or groups and not to the general public;

(J) An entity operating a commercial golf related recreational facility, whether open to the public or limited to members and guests of an association or owners and guests of a development upon or adjacent to which the facility is located, which entity or facility meets all of the following criteria:

(i) The facility is located in a county having a population of not less than thirty-four thousand seven hundred thirty (34,730) nor more than thirty-four thousand eight hundred (34,800), according to the 1990 federal census or any subsequent federal census;

(ii) The facility is operated in conjunction with an eighteen (18) hole golf course;

(iii) The facility is kept, used and maintained as a place where meals are actually and regularly served with such adequate and sanitary kitchen facilities as might be needed to meet the reasonable requirements of its patrons, members, or guests;

(iv) The entity does not discriminate or limit the use of the facilities solely on the basis of race, creed, sex, or national origin, and has provided to the commission a written certification of its policy;

(v) Such facility has enclosed clubhouse space of at least five thousand square feet (5,000 sq. ft.);

(vi) Such facility is located no less than seven (7) miles and no more than eight (8) miles from an interchange of an interstate highway; and

(vii) Such facility is located on a geographic area, owned or operated by the entity, which area contains not less than one hundred fifty-five (155) acres nor more than one hundred seventy (170) acres; and

(K) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned and operated by an association or corporation and in connection with an eighteen-hole golf course, which facility is regularly kept, used and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must be located in or adjacent to a real estate development containing no less than one thousand one hundred (1,100) acres and no more than two thousand (2,000) acres;

(ii) The facility must have no less than nine thousand (9,000) enclosed square feet;

(iii) The facility must be located within the limits of a development which is contiguous to a water reservoir operated and maintained by the United States army corps of engineers during 1998 or any subsequent
years; and

(iv) Maintenance within the recreational area of the following types of recreational facilities:
   (a) Golf course of at least eighteen (18) holes;
   (b) Swimming pool;
   (c) Tennis court; and
   (d) Walking trails;

(6) A resort containing all of the following characteristics:
   (i) Has a restaurant, with a current overall seating capacity of two hundred eighty (280), including outside dining service, and which serves over seventy-five thousand (75,000) patrons per year;
   (ii) Is located immediately adjacent to the Cherokee National Forest, the only national forest in Tennessee and the Cherohala Skyway, one of only twenty (20) highways in the country designated as a national scenic byway;
   (iii) Is located along the scenic Tellico River, a tributary of the Little Tennessee River;
   (iv) Currently operates nine (9) cabins, a river walk, and an open-air chapel and pavilion;
   (v) After a proposed expansion will include at least thirty (30) cottages, a full-service health and wellness spa, a championship golf course, racquet club, adventure club for canoeing, kayaking, hiking, biking and other outdoor activities, an equestrian club, conference facilities, a hunt and fish club, crafts and education, and history tours; and
   (vi) Is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor greater than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(M) A commercially or privately operated recreational facility containing all of the following characteristics:
   (i) The facility is located within a platted housing subdivision of not less than four hundred (400) acres nor greater than five hundred twenty-five (525) acres;
   (ii) The facility is located on or adjacent to an eighteen-hole golf course located within the development;
   (iii) The facility is located within a development that operates a recreational swimming pool of at least sixty thousand gallons (60,000 gals.);
   (iv) The facility operates and maintains tennis courts for use by homeowners, visitors, tourists, or guests;
   (v) The facility operates a clubhouse for the use of homeowners, visitors, tourists, or guests of at least five thousand total square feet (5,000 sq. ft.) and the clubhouse houses a restaurant with seating at tables for at least forty (40) people and such restaurant has adequate kitchen facilities;
   (vi) The facility is located within a county with a population of not less than thirty-nine thousand fifty (39,050) nor more than thirty-nine thousand one hundred fifty (39,150), according to the 2000 federal census or any subsequent federal census; and
   (vii) The facility shall have been providing some or all of the described recreational services for a continuous period of at least four (4)
years at the time of licensing;

(N) A commercially operated recreational facility, located adjacent to a navigational river which contains all of the following characteristics:
(i) Such facility has direct access to a navigable waterway;
(ii) Such facility contains a minimum of two hundred (200) slips for boats;
(iii) Such facility provides boat fuel, boat rental and repair;
(iv) Such facility is located upon or adjacent to a public park or preserve, which park is at least one hundred (100) acres in size, and which park contains a swimming pool, tennis courts and at least a nine (9) hole golf course; and
(v) Such facility is located within a county with a population of at least three hundred eighty thousand (380,000), according to the 2000 federal census or any subsequent federal census;

(O) An entity granted a franchise for the operation of a restaurant or food and beverage services on the premises of the premier type tourist resort, and for such purposes a premier type tourist resort shall have the privilege of granting such franchises;

(P) A commercially operated facility which contains all of the following characteristics:
(i) Such facility was licensed as a health club on December 31, 2015;
(ii) Such facility only allows members and their invited guests;
(iii) Such facility has two (2) swimming pools with one pool having at least fifteen thousand square feet (15,000 sq. ft.) of water surface;
(iv) Such facility provides volleyball courts, a basketball court and a recreation area with food service;
(v) Such facility is located within fifteen (15) miles of an airport;
(vi) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vii) Such facility is located within a county having a population of not less than three hundred eighty-two thousand (382,000) nor more than three hundred eighty-two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census;

(Q) A commercially operated facility which contains all of the following characteristics:
(i) Such facility is located no more than three and one half (3 ½) miles from the right of way of Interstate 40 and fronting on State Highway 92 and has a minimum of eight (8) acres of lake front property with a minimum of five thousand eight hundred feet (5,800') of shore line;
(ii) Such facility has at least eighty (80) boat slips and forty-eight (48) dry slips, a boat launching ramp, a full service restaurant seating at least one hundred seventy-five (175) people inside with outside patio dining, a ships store offering boat supplies and gasoline, and an outdoor pavilion;
(iii) Such facility provides accommodations consisting of at least twenty (20) lakeside hotel/motel units in a building or buildings designed for such purposes;
(iv) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any subsequent federal census; and
Such facility shall also include any commercial boat for charter that departs from any such facility if the boat is licensed by the United States Coast Guard to carry not less than fifty (50) passengers on a single vessel and has adequate facilities and equipment for serving regular meals, on regular schedules, or charter trips, while moving through or docked in any county of the state;

(R) A commercially operated facility which at a minimum contains all of the following characteristics:

(i) Such facility is located within one (1) mile of the right-of-way of Interstate 40 and in an area zoned by the municipality as B-3; and

(ii) Such facility is located within a county having a population of not less than forty-four thousand (44,000) nor more than forty-four thousand nine hundred (44,900), according to the 2000 federal census or any subsequent federal census;

(S) A commercially operated facility which contains all of the following characteristics:

(i) Such facility is located no more than one half (½) mile from the right of way of Interstate 75 and accessible to State Highway 68;

(ii) Such facility has at least nine thousand square feet (9,000 sq. ft.) of conference space;

(iii) Such facility provides accommodations consisting of at least one hundred twenty-five (125) hotel or motel rooms in a building or buildings designed for such purposes;

(iv) Such facility provides recreational facilities including an indoor swimming pool;

(v) Such facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Such facility is located within a county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000), according to the 2000 federal census or any subsequent federal census;

(T) A nine-hundred-sixty-acre peninsula gated community located on a lake with ten (10) miles of shoreline, and which facility contains all of the following characteristics:

(i) Has an eighteen-hole golf course and tennis courts;

(ii) Has a club house, restaurant, lounge, fitness center, and swimming pool;

(iii) Maintains a community garden, community and neighborhood docks and a boat ramp;

(iv) Has an equestrian facility with extensive riding trails;

(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vi) Is located in two (2) counties one (1) county having a population of not less than thirty-eight thousand nine hundred (38,900) nor more than thirty-nine thousand (39,000) and the other county having a population of not less than thirty-nine thousand fifty (39,050), nor more than thirty-nine thousand one hundred fifty (39,150), both according to the 2000 federal census or any subsequent federal census;

(U) A facility which contains all the following characteristics:

(i) Has resort lodge condominiums, homes and vacation cottages;

(ii) Has an eighteen hole golf course and tennis courts with a pro
shop;
  (iii) Has a swimming pool;
  (iv) Has rock climbing, hiking and biking trails;
  (v) Has a full service spa;
  (vi) Has banquet and dining services and a business service center;
  (vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
  (viii) Is located in a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;
(V) It is lawful for any establishment located in a premier type tourist resort as defined in § 67-6-103(a)(3)(B)(iii) which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;
(W) It is lawful for any establishment located in a municipality which:
  (i) Has an approved Tourist Development Zone as set forth in title 7, chapter 88, part 1;
  (ii) Has a AA minor league baseball team; and
  (iii) Is located in a county with an amusement park, a ski resort, and a national park,
which is licensed to serve beer to also serve wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;
(X) A commercially operated recreational facility, located adjacent to a navigable river, that has all of the following characteristics:
  (i) Contains at least one hundred (100) boating slips available for lease, rental, or use by guests;
  (ii) Has one (1) or more restaurant facilities with a combined seating capacity of at least two hundred (200);
  (iii) Has a lodge with at least fifteen (15) units available for transient lodging; and
  (iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;
(Y) A commercially operated facility that has all of the following characteristics:
  (i) Is located no more than six (6) miles from Interstate 40 at exit 427, and on both sides of a county highway known as Harrison Ferry Road. The facility contains a minimum of one hundred forty-three (143) acres, and includes a minimum of twenty-two (22) acres of land zoned commercial for future development at the corner of Back Nine Drive and Mountain View Lane;
  (ii) Has an eighteen-hole golf course, two (2) practice putting greens, a practice chipping green and a practice area for golf instruction. The facility also contains a large swimming pool, a boat ramp into Douglas Lake, and two (2) tennis courts;
  (iii) Has a clubhouse with a fully-equipped pro shop, a full-service restaurant seating at least one hundred fifty (150) persons inside, with an outside patio that seats at least seventy (70) persons;
  (iv) Provides accommodations, consisting of at least twelve (12) hotel/motel units and at least nine (9) villa units; and
(v) Is located within an incorporated municipality having a population of less than five hundred (500), according to the 2000 federal census or any subsequent federal census, within a county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census; and

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(Z) An inn that has all of the following characteristics:
   (i) Contains at least twelve (12) transient guest rooms in the main house;
   (ii) Has a separate meeting lodge and facility that also houses at least four (4) new French country transient suites;
   (iii) Has at least two (2) kitchens on the premises and offers at least two (2) meals daily;
   (iv) Has an open-air, outdoor, sylvan chapel suitable for the accommodation of wedding ceremonies;
   (v) Provides entertainment in the form of cooking demonstrations, storytelling and dulcimer playing;
   (vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and
   (vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(AA) A commercially operated facility that has all of the following characteristics:
   (i) Is a full service colonial mansion located on an eighty-one-acre estate;
   (ii) Contains no fewer than eight (8) transient rooms and seventeen (17) bathrooms;
   (iii) Contains a dining room with capacity for fifty (50) persons that serves at least two (2) meals daily;
   (iv) Has a heated swimming pool, a fitness center, a sauna, a tennis court and a billiard room;
   (v) Has a system of hiking and walking trails;
   (vi) Is listed in Distinguished Inns of North America, 16th Edition, by Select Registry; and
   (vii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin;

(BB) A facility that has nine (9) acres of shoreline development on Watts Bar Lake and that has all of the following characteristics:
   (i) Has one- to three-bedroom cottages;
   (ii) Has a marina with two hundred fifty (250) slips, both wet and dry;
   (iii) Has a restaurant and lounge;
   (iv) Has a swimming pool;
   (v) Has rental boats;
   (vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
   (vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;
(CC) A development that has all the following characteristics:
   (i) Has a well established marina with boat rentals, gasoline, guide services, etc., and a resort operating for more than fifty (50) years;
   (ii) Includes more than two hundred (200) acres on Watts Bar Lake;
   (iii) Has forty (40) cottages rented on a daily or weekly basis;
   (iv) Has a restaurant;
   (v) Has walking and nature trails;
   (vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
   (vii) Is located in a county having a population of not less than twenty-eight thousand three hundred fifty (28,350) nor more than twenty-eight thousand four hundred fifty (28,450), according to the 2000 federal census or any subsequent federal census;

(DD) Any facility located in a municipality that has a civil war battlefield:
   (i) Of which more than one thousand four hundred (1,400) acres have been designated in the National Register of Historic Places;
   (ii) For which a management contract has been entered into between the municipality and the Tennessee historical commission;
   (iii) Which has a self-guided driving tour;
   (iv) For which long-range plans include walking trails, interpretive signs and a visitor’s center with a museum;
   (v) At which, every two (2) years, a living history and reenactment of the battle fought in December, 1862 is presented;
   (vi) That is famous for the southern general’s order to his troops to “Charge them both ways”; and
   (vii) Is located in a county having a population of not less than twenty-five thousand four hundred fifty (25,450) nor more than twenty-five thousand five hundred fifty (25,550), according to the 2000 federal census or any subsequent federal census;

(EE) A facility that has at least fourteen (14) acres located on a lake of at least eight thousand (8,000) acres and that has the following characteristics:
   (i) Contains at least three hundred and fifty (350) boat slips;
   (ii) Contains a dry storage facility;
   (iii) Provides boat rentals;
   (iv) Contains a marine store;
   (v) Contains a full service restaurant with seating for at least one hundred fifty (150) people, as well as a private banquet facility;
   (vi) Has motel rooms and cabins for rent;
   (vii) Contains a swimming pool;
   (viii) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
   (ix) Is located in a county having a population of not less than fifty-six thousand seven hundred (56,700) nor more than fifty-six thousand eight hundred (56,800), according to the 2000 federal census or any subsequent federal census;

(FF) A facility that has three hundred eighty-five (385) acres of development on J. Percy Priest Lake and that has all the following characteristics:
   (i) Has a water park;
(ii) Has a marina with more than three hundred twenty (320) slips;
(iii) Has a recreational vehicle (RV) campground;
(iv) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(v) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(GG) A development that has all of the following characteristics:
(i) Has a well established marina with boat slip rentals, gasoline, etc.;
(ii) Includes three hundred eighty-five (385) acres on J. Percy Priest Lake;
(iii) Has a water park;
(iv) Has a recreational vehicle (RV) campground;
(v) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vi) Is located in a county having a population of not less than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(HH) A fully staffed overnight accommodations facility that:
(i) Is open twenty-four (24) hours a day, located on thirty-four (34) acres of land, that offers at least one (1) meal per day, along with hiking, a fitness facility, an event lawn, and a retail store;
(ii) Has twenty (20) one- and two-bedroom cabins that have kitchens or kitchenettes, wood-burning fireplaces, hot tubs, and high-speed Internet access;
(iii) Has a one thousand five hundred square foot (1,500 sq. ft.) meeting facility with a capacity of up to one hundred twenty-five (125) persons, and a restaurant with a capacity of up to eighty-five (85) persons, both of which have high-speed Internet access; and
(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(II) A commercially operated facility containing all of the following characteristics:
(i) The facility has a marina with approximately one hundred sixty-six (166) wet slips and approximately one hundred thirty-three (133) dry storage units;
(ii) The facility is located within a lake-resort, gated residential development of at least one thousand two hundred (1,200) acres having in excess of four hundred fifty (450) single family homes and condominium units;
(iii) The facility is located on a lake that has over eight hundred thirty-four (834) miles of shore line;
(iv) The facility will have a restaurant with a seating capacity of at least fifty (50) people, serving at least two (2) meals a day;
(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vi) The facility is located within a county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty-nine thousand eight hundred seventy-five (39,875), according to the 2000 federal census or any subsequent federal census;

(JJ)(i) A commercially-operated facility containing all of the following
characteristics:

(a) The facility has on its premises a marina that has at least two hundred fifty (250) covered or uncovered wet slips and at least seventy-five (75) dry rack slips;

(b) The facility has on its premises property leased or available for lease to a boating, yachting or water-based recreational club;

(c) The facility has on its premises a restaurant, providing food service to the public or for private events, with seating in the restaurant for at least fifty (50) persons at tables, whether or not the seating is inside or on a deck or patio adjacent to the restaurant;

(d) The facility has the capacity to serve as a home berth location for a commercial vessel for hire or for public cruises of at least seventy-five feet (75') in length;

(ii) When used in this subdivision (26)(JJ), the “facility” under subdivision (26)(JJ)(i) shall include any location within the property designated by the licensee;

(iii) A facility under this subdivision (26)(JJ) shall also include any passenger sternwheel paddleboat, licensed by the United States coast guard, with rated passenger capacity of not less than one hundred (100) passengers and which paddleboat shall be at least seventy-five feet (75') in length, which may use the marina facilities as described in subdivision (26)(JJ)(i) for its home or principal secondary port dock. The authority conferred under this subdivision (26)(JJ)(iii), authorizing the sale or distribution of alcoholic beverages, including beer, on any qualified sternwheel paddleboat shall extend only so long as the paddleboat is located at the marina facility described in subdivision (26)(JJ)(i) or is within one hundred (100) miles of the marina facility;

(iv) For purposes of obtaining a license under this subdivision (26)(JJ), the commission shall be authorized to issue a license solely to the owner or operator of a sternwheel paddleboat, meeting the qualifications of subdivision (26)(JJ)(iii), whether or not the facility described in subdivision (26)(JJ)(i) receives a license under this chapter;

(KK) A commercially operated recreational facility containing all of the following characteristics:

(i) Owning and operating one (1) or more golf courses, that include practice putting greens, chipping greens and a driving range;
(ii) Operating a clubhouse facility, of at least eight thousand square feet (8,000 sq. ft.), containing a commercial quality kitchen and seating for at least one hundred (100) persons at tables;

(iii) Operating a private clubhouse of at least five thousand square feet (5,000 sq. ft.), with seating at tables for at least eighty (80) persons, and which private clubhouse contains a full service kitchen;

(iv) Located on a minimum of one hundred thirty-seven (137) acres; and

(v) Located within a county through which a major interstate passes, supports a Tennessee board of regents university of approximately nine thousand three hundred (9,300) students for the 2006 academic year and whose sports teams are nicknamed the golden eagles;

(MM) A facility operated either commercially or on a nonprofit basis as a club containing all of the following characteristics:

(i) A clubhouse having not less than approximately five thousand eight hundred square feet (5,800 sq. ft.);

(ii) An eighteen-hole golf course for use by its members and their guests;

(iii) A restaurant with a suitable kitchen, dining facilities and equipment serving two (2) meals daily and open six (6) days a week;

(iv) Is part of a planned unit development;

(v) Has at least one hundred (100) members regularly paying dues;

(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(vii) Is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census; and

(NN) It is lawful for a facility providing full service dining to serve wine to be consumed on the premises, subject to the further provisions of this chapter, other than § 57-4-103, that contains the following characteristics:

(i) The facility provides seating at tables for not less than one hundred twenty-five (125) persons and is located on approximately three (3) acres;

(ii) The dining area is at least four thousand eight hundred square feet (4,800 sq. ft.);

(iii) The facility provides seating, on a deck or a patio, for at least forty (40) persons, weather permitting, which deck or patio is in close proximity to a river or waterway; and

(iv) The facility is located in a county with a population of not less than twenty-three thousand (23,000) nor more than twenty-three thousand two hundred (23,200), according to the 2000 federal census or any subsequent federal census;

(OO) A commercially operated facility containing all of the following characteristics:

(i) The facility has overnight accommodations for at least thirty-two (32) people in at least twelve (12) private guest rooms with en-suite bathrooms;

(ii) The facility has a main dining room which seats at least thirty-two (32) people;
(iii) The facility has meeting and conference space, including at least two (2) dedicated conference rooms;
(iv) The facility has a historic water-operated grist mill;
(v) The facility does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(PP) A commercially operated facility containing all of the following characteristics:
(i) The facility has a marina with at least four hundred thirty-five (435) wet slips;
(ii) The facility has a minimum of four hundred twelve (412) paved single car parking spaces and in addition at least thirty (30) car/trailer paved parking spaces;
(iii) The facility has a restaurant with inside seating for at least seventy-eight (78) persons and patio dining for at least fifty-four (54) persons;
(iv) The facility is located within one great circle mile of Tennessee highway 56;
(v) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and
(vi) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(QQ)(i) A commercially operated facility containing all of the following characteristics:
(a) Owning and operating a golf course that is open to the public, that includes practice putting and chipping greens and a driving range;
(b) Operating a clubhouse facility of approximately four thousand square feet (4,000 sq. ft.), containing a commercial quality kitchen and seating for at least eighty-three (83) persons inside at tables;
(c) The facility is located at the intersection of State Highway 55 and Pete Sain Road;
(d) The facility does not discriminate against any patron on the basis of gender, race, religion or national origin; and
(e) The facility is located within a county having a population of not less than forty-eight thousand (48,000) nor more than forty-eight thousand one hundred (48,100), according to the 2000 federal census or any subsequent census;
(ii) The rights of any facility licensed under this subdivision (26)(QQ) as to activities permitted under this chapter may be held by the entity that owns the facility, the entity that leases the facility, or an entity operating a restaurant pursuant to a written contract with the entity that owns or leases the facility;

(RR) A commercially operated recreational facility on at least ninety (90) acres of land that borders the Cherokee National Forest that offers lodging, recreation and restaurant packages to patrons containing all of
the following characteristics:

(i) A rustic lodge with at least five (5) private overnight rooms that all possess a king-sized bed, mini-refrigerator, coffee maker, microwave, television, sitting area and private full bathroom, all of which have views of the mountains and are situated in a lodge with a shared great room and hot tub;

(ii) At least ten (10) cabins for overnight stays that sleep multiple persons, some of which are company-owned and some of which are privately-owned but rented by the company, and include the following amenities: television, outdoor hot tub on private deck, heat and air conditioning, gas grill, cookware, fireplace, linens and towels and large and small appliances including washer/dryer and all common kitchen appliances;

(iii) Riding stables with at least twenty-two (22) stalls for both horses owned by the resort and for overnight lease for or by guests, on-site guided trail rides provided by the owners, a horse arena with a bathroom, mountain biking, hiking, fishing including an on-site stocked pond and swimming in the guest swimming pool;

(iv) A dining restaurant that possesses a kitchen and is currently permitted to serve beer that is attached to a larger multi-purpose hall that hosts banquets, dining, dancing, music, live bands and other types of entertainment, all of which are connected to two (2) bars and at least one (1) private room and includes dining upstairs and downstairs and multiple outdoor seating decks, all of which possess a combined seating of at least two hundred (200) persons, that serves at least nine (9) meals on a weekly basis, with the exceptions of closures for private groups that include the year-round hosting of reunions, weddings and corporate workshops and seasonal closures, vacations, general maintenance and remodeling by the owners;

(v) A building that contains an administrative office and a general store complete with all sorts of merchandise for use on and off of the premises of the resort, a building that contains a tack store that sells all sorts of horse-related merchandise and a building that contains a game room;

(vi) An outdoor pavilion that possesses a grill and in which other outdoor cooking devices may be used and that is used to serve meals outdoors in combination with foods prepared in the kitchen;

(vii) A gazebo used for outdoor weddings;

(viii) When used in this subdivision (26)(RR), “facility” includes any location within the property designated by the licensee;

(ix) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(x) Is located within a county having a population of not less than thirty-three thousand five hundred twenty-five (33,525) nor more than thirty-three thousand six hundred (33,600), according to the 2000 federal census or any subsequent federal census;

(SS)(i) A commercially operated recreational facility, whether open to the public or limited to members and guests of a corporation, limited liability company, association or of the development in which it is located, owned and operated by a corporation, limited liability company or association, having all of the following characteristics:
(a) The facility must be located in or adjacent to a residential real
estate development containing no less than one thousand (1,000)
acres and no more than two thousand (2,000) acres, inclusive of the
facility;
(b) The facility must have at least three (3) permanent structures,
open to the public or to members and their guests, with the largest
structure having at least thirty thousand square feet (30,000 sq. ft.) of
enclosed space;
(c) The closest boundary of the real estate development in which
the facility is located must be located no more than two thousand feet
(2,000') from the right-of-way of Interstate 840 and must be directly
adjacent to Arno Road;
(d) The facility must maintain the following types of recreational
amenities:
   (1) A golf course having at least eighteen (18) holes;
   (2) At least one (1) swimming pool;
   (3) At least one (1) tennis court; and
   (4) A fitness facility;
(e) The facility must have at least one (1) room or rooms that are
regularly kept, used and maintained as a place where meals are
regularly served, with adequate and sanitary kitchen facilities and
seating at tables for at least seventy-five (75) persons;
(f) The facility must be located in a county having a population of
not less than one hundred twenty-six thousand six hundred (126,600)
nor more than one hundred twenty-six thousand seven hundred
(126,700), according to the 2000 federal census or any subsequent
federal census; and
(g) The facility must not discriminate against any patron on the
basis of age, gender, race, religion or national origin;
(ii) The premises of any facility licensed under this subdivision
(26)(SS) means any or all of the property that constitutes the facility,
including swimming pools, tennis courts, golf courses, paths and road
crossings. A licensee shall designate the premises to be licensed by the
commission by filing a drawing of the premises, which may be amended
by the licensee filing a new drawing;
(II)(i) A commercially operated recreational facility which contains
each of the following characteristics:
   (a) Is located within a county with a population of not less than
seventeen thousand (17,000) nor greater than eighteen thousand
(18,000), according to the 2010 federal census or any subsequent
federal census;
   (b) Has located on its premises, stables for the temporary or
permanent stabling of horses with a capacity of at least two hundred
twenty (220) horses;
   (c) Consists of property of at least ten thousand (10,000) acres,
contiguous and noncontiguous;
   (d) Has located upon its premises trails and horseback riding,
wagon trails, campsites with electrical service, bathhouses and a
pavilion for cookouts; and
   (e) Has a restaurant facility for the preparation and serving of food
and beverages to guests of the facility located at the facility;
(ii) The rights of the facility as to activities permitted under this chapter may be held by the entity which owns the facility, the entity which leases the facility, or an entity operating the restaurant pursuant to a written contract with the entity which owns or leases the facility;

(iii) The facility may be a contiguous parcel of property or may be noncontiguous; provided, that any part of the facility which is noncontiguous to any other part of the facility is separated only by a roadway or street; and

(iv) The entity excising the rights of the facility shall be authorized to engage in the activities permitted under this chapter anywhere on the premises of the facility as disclosed to the commission;

(UU) A privately owned facility possessing each of the following characteristics:

(i) Is located on at least twenty (20) acres;
(ii) Has a restaurant facility with at least one thousand two hundred square feet (1,200 sq. ft.) that seats at least one hundred (100) patrons at tables located both inside and outside the facility;
(iii) Has a marina with at least one hundred (100) slips and that provides house boat rentals of at least four (4) house boats;
(iv) Has at least four (4) cabins, seven (7) camping slots and at least three (3) RV slots;
(v) Has a boat repair shop and a store that carries boating and skiing type items;
(vi) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and
(vii) Is located within any county having a population of not less than seventeen thousand eight hundred (17,800) nor more than seventeen thousand eight hundred seventy-five (17,875), according to the 2000 federal census or any subsequent federal census;

(VV) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least two hundred forty (240) wet slips;
(ii) The facility has a minimum of nine (9) housing units for rent containing nineteen (19) bedrooms;
(iii) The facility has a campground with twelve (12) sites containing electric and sewer hookups;
(iv) The facility has a minimum of one hundred forty-seven (147) paved single car parking spaces;
(v) The facility has a restaurant with inside seating for at least twenty-eight (28) persons and patio dining for at least forty (40) persons;
(vi) The facility has an outdoor pavilion which seats one hundred fifty (150) persons;
(vii) The facility is located on Jefferson Road, approximately six and one tenth (6.1) miles from the intersection with Highway 288/Keltonburg Road and thirteen (13) miles from Highway 70;
(viii) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and
(ix) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000
federal census or any subsequent federal census;

(WW) A commercially operated facility containing all of the following characteristics:
   (i) The facility has a minimum of eighty seven (87) parking spaces;
   (ii) The facility has a restaurant open year-round with inside seating for at least sixty (60) persons and outside seating for at least one hundred nineteen (119) persons;
   (iii) The facility is located on Highway 96 less than one (1) mile from Center Hill Lake; and
   (iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(XX) A commercially operated facility containing all of the following characteristics:
   (i) The facility has a minimum of eighty five (85) parking spaces;
   (ii) The facility has a restaurant open year-round at least six (6) days a week with inside seating for at least one hundred (100) persons and outside seating for at least one hundred twenty (120) persons;
   (iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and
   (iv) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(YY) A commercially operated facility containing all of the following characteristics:
   (i) The facility owns and operates an eighteen (18) hole golf course that is open to the public, which includes putting greens and a driving range;
   (ii) The facility operates a clubhouse facility of approximately five thousand (5,000) square feet, with seating at tables for at least eighty (80) persons and which clubhouse contains a full-service kitchen;
   (iii) The facility operates a swimming pool;
   (iv) The facility is located on a minimum of one hundred thirty-three (133) acres;
   (v) The facility is located adjacent to old Highway 45W and is situated within a county having a population of not less than forty-eight thousand one hundred twenty-five (48,125) nor more than forty-eight thousand two hundred (48,200), according to the 2000 federal census or any subsequent federal census; and
   (vi) The facility does not discriminate against any patron on the basis of gender, race, religion or national origin;

(ZZ) [Deleted by 2016 amendment.]

(AAA) A commercially operated facility containing all of the following characteristics:
   (i) The facility has a marina with at least five hundred thirty (530) wet slips;
   (ii) The facility has a minimum of two hundred fifty (250) paved single car parking spaces;
   (iii) The facility has a restaurant with inside seating for at least
eighty (80) persons and outside seating for at least sixty (60) persons;

(iv) The facility is located on a lake with at least eighteen thousand (18,000) acres of water and at least three hundred forty-two (342) miles of shore line; and

(v) The facility is located within a county having a population of not less than seventeen thousand four hundred (17,400) nor more than seventeen thousand four hundred fifty (17,450), according to the 2000 federal census or any subsequent federal census;

(BBB) A commercially operated facility containing all of the following characteristics:

(i) The facility includes a one hundred forty-seven thousand square foot (147,000 sq. ft.) boat and RV showroom and service center with retail sales of all types of camping and boating equipment as well as a boat and RV parts department;

(ii) The facility has a two hundred fifty (250) seat full service restaurant;

(iii) The facility has a two hundred fifty (250) site campground with two (2) swimming pools, cabins and a lodge;

(iv) The facility is a travel center with a store, pizzeria, delicatessen, fuel center;

(v) The facility has an arcade;

(vi) The facility is located at 2475 Westel Road; and

(vii) The facility is located within a county having a population of not less than forty-six thousand eight hundred (46,800) nor more than forty-six thousand nine hundred (46,900), according to the 2000 federal census or any subsequent federal census;

(CCC) A commercially operated facility containing all of the following characteristics:

(i) The facility has a marina with at least one hundred one (101) wet slips;

(ii) The facility has a minimum of sixty (60) paved single car parking spaces;

(iii) The facility has a restaurant with adequate and sanitary kitchen facilities with inside seating for at least forty (40) persons and outside seating for at least one hundred fifty (150) persons and is kept, used and maintained as a place where meals are served and where meals are actually and regularly served when the facility is opened for business; and

(iv) The facility is located within a county having a population of not less than thirty-one thousand one hundred (31,100) nor more than thirty-one thousand two hundred (31,200), according to the 2000 federal census or any subsequent federal census;

(DDD) A commercially operated facility which contains all of the following characteristics:

(i) Is a bed and breakfast homestay, as defined in § 68-14-502(1)(B), that opened in 2008;

(ii) Has at least two (2) rooms available for overnight guests;

(iii) Is able to prepare on-site custom meals for up to thirty (30) persons;

(iv) Offers cooking classes; and
(v) Is located within any county having a population of not less than one hundred eighty-two thousand (182,000) nor more than one hundred eighty-two thousand one hundred (182,100), according to the 2000 federal census or any subsequent federal census;

(EEE) A commercially operated recreational facility whether open to the public or limited to members and guests of an association or of the development on which it is located, owned, and operated by an association or corporation and in connection with an eighteen-hole golf course which facility is regularly kept, used, and maintained as a place where meals are actually and regularly served, with adequate and sanitary kitchen facilities, and which facility meets all the following characteristics:

(i) The facility must have a clubhouse with no less than six thousand enclosed square feet (6,000 sq. ft.);

(ii) The facility must be located within the limits of a development that is within five hundred yards (500 yds.) of a water reservoir operated and maintained by the United States Army corps of engineers during 1998 or any subsequent years;

(iii) The facility must be located within at least three (3) miles of an airport with lighted runway of at least three thousand feet (3000') in length;

(iv) Maintenance within the recreational area of the following types of recreational facilities:

(a) Golf course of at least eighteen (18) holes;

(b) Swimming pool; and

(c) Tennis court; and

(v) The facility is located within a county having a population of not less than twenty-nine thousand eight hundred (29,800) nor more than twenty-nine thousand nine hundred (29,900), according to the 2000 federal census or any subsequent federal census;

(FFF) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has at least ninety-five (95) acres located approximately five (5) miles south of Interstate 40 on Tennessee State Highway 13;

(ii) Is fronted on the west side by Tennessee State Highway 13 and bordered on the south side by a scenic river as defined in title 11, chapter 13, part 1;

(iii) Has at least four (4) cabins;

(iv) Has at least thirty (30) recreational vehicle pads and sites with full electrical, water and sewer hookups;

(v) Has at least a forty-seat restaurant which has been approved by the local health department that has an approved beer permit and has food available, with exceptions of closures for private groups or events, seasonal closures, vacations, general maintenance and remodeling by the owners;

(vi) When used in this subdivision (26)(FFF), the “facility” shall include any location within the property designated by the licensee;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) Is located within any county having a population of not less than seven thousand six hundred (7,600) nor more than seven thousand seven hundred (7,700), according to the 2000 census or any subsequent
federal census; and the legislative body of such county adopts a resolution endorsing such resort and recreational facility as a premier type tourist resort as defined in this subdivision (26);

(GGG) A commercially operated facility containing all of the following characteristics:

(i) Has a restaurant serving an upscale menu featuring lobster tail, crab legs and fresh cut steaks;
(ii) Is located on a lake by a marina;
(iii) Has a boat dock within walking distance of the restaurant;
(iv) Has indoor seating for approximately one hundred thirty (130) diners and outdoor dining on the patio with seating for approximately one hundred eighty (180);
(v) Offers live entertainment on the patio at its Tiki Bar; and
(vi) Is located in any county having a population of not less than forty-four thousand two hundred (44,200) nor more than forty-four thousand three hundred (44,300), according to the 2000 federal census or any subsequent federal census;

(HHH) A privately-owned resort and recreational facility possessing each of the following characteristics:

(i) Has a dock with marina which has at least one hundred seventy (170) boat slips which is located on or near the four hundred eighty-two (482) mile marker on the Tennessee River;
(ii) Has an outside gazebo which is used for various functions;
(iii) Has a restaurant with a dining room of at least four thousand two hundred square feet (4,200 sq. ft.), which seats at least two hundred (200) persons both indoors and outdoors, including an outdoor balcony; and which serves meals at least four (4) days on a weekly basis including Sunday brunch, with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners;
(iv) When used in this subdivision (26)(HHH), the “facility” shall include any location within the property designated by the licensee; and
(v) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(III) A commercially operated facility containing all of the following characteristics:

(i) Regularly serves meals at tables and continuously maintains adequate kitchen facilities;
(ii) Has indoor seating for approximately one hundred twenty (120) diners and outdoor seating for approximately one hundred thirty (130);
(iii) Is located on the banks of the Cumberland River;
(iv) Has a transient boat dock within walking distance of the restaurant;
(v) Specializes in serving catfish and is often referred to as “the Catfish Place under the bridge”; and
(vi) Is located in any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census;

(JJJ) A bed and breakfast possessing each of the following characteristics:
(i) The house is approximately ten thousand square feet (10,000 sq. ft.) and has rooms for approximately twelve (12) guests to stay overnight;
(ii) Has a smaller upper level patio and a larger, lower level patio;
(iii) Has a main dining room on the first floor which can accommodate approximately seventy (70) guests. The main dining room is one (1) large room with floor to ceiling windows providing one hundred eighty degrees (180°) of lakefront viewing;
(iv) Has accommodations for an additional forty (40) guests for outside dining;
(v) Is located in the Long Branch portion of Dale Hollow Lake;
(vi) The property on which the bed and breakfast is situated has space for weddings, family reunions and other large gatherings on the large outside portion of the property; and
(vii) Is located in any county having a population of less than seven thousand eight hundred fifty-one (7,851) nor more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census or any subsequent federal census;

(KKK) A hotel possessing all of the following characteristics:
(i) Contains at least twenty five (25) rooms for the sleeping accommodations of guests;
(ii) Is registered as a national historic landmark;
(iii) Is located within a central business improvement district; and
(iv) Is located in any county having a population of not less than four hundred thirty-two thousand two hundred (432,200) nor more than four hundred thirty-two thousand three hundred (432,300), according to the 2010 federal census or any subsequent federal census;

(LLL) A commercially operated recreational facility possessing each of the following characteristics:
(i) Is located at least two hundred feet (200’) from a natural lake that is located in or near a state park, which has waterfowl hunting and fishing is available year round;
(ii) Has a restaurant which has:
   (a) A beer license;
   (b) A commercial kitchen; and
   (c) Seating for at least seventy-five (75); and
(iii) Has a boat ramp and boat dock;

(MMM) A commercially operated facility containing all of the following characteristics:
(i) The facility has a restaurant open year-round with inside seating for at least seventy-five (75) persons;
(ii) The facility has a minimum of eighty-five (85) parking spaces;
(iii) The facility is located on Highway 70 less than three (3) miles from Center Hill Lake; and
(iv) The facility is located within a county having a population of not less than eighteen thousand seven hundred (18,700) nor more than eighteen thousand seven hundred fifty (18,750), according to the 2010 federal census or any subsequent federal census;

(NNN)(i) A commercially operated recreational facility possessing all of the following characteristics:
   (a) A golf course of at least eighteen (18) holes;
(b) Wooded trails for horseback riding;
(c) A fully stocked fishing pond;
(d) At least three (3) tennis courts;
(e) Located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and
(f) Is located no more than two thousand feet (2,000') from the right-of-way of Interstate 840 and must be directly adjacent to Arno Road;

(ii) The premises of any facility licensed under this subdivision (26)(NNN) means any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths, and road crossings. A license shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(000) A commercially owned marina containing all of the following characteristics:
(i) Operates as a marina on approximately forty-six (46) acres of land;
(ii) Has a restaurant with at least one hundred ten (110) seats;
(iii) Has approximately two hundred (200) boat slips;
(iv) Has seven (7) cabins; and
(v) Is located in a county having a population of not less than forty-four thousand five hundred (44,500) nor more than forty-four thousand six hundred (44,600), according to the 2010 federal census or any subsequent federal census;

(PPP) A commercially operated facility containing all of the following characteristics:
(i) Operates as a hunting lodge on approximately four hundred (400) acres of land;
(ii) Has adequate kitchen facilities and a dining area within the hunting lodge with seating of at least fifty (50) at tables;
(iii) Has capacity to sleep at least thirty (30) guests within the main hunting lodge and at least twenty (20) guests in a cabin located on the property; and
(iv) Is located off I-40 at Exit 311 in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(QQQ) [Deleted by 2015 amendment]

(RRR) A commercially operated facility open to the public for persons twenty-one (21) years of age or older that has all of the following characteristics:
(i) Is located within three (3) miles of Dale Hollow Lake;
(ii) Has a kitchen that serves food to customers;
(iii) Is licensed to sell beer;
(iv) Is located in an A frame building built in 1968;
(v) Has a deck of more than one thousand square feet (1,000 sq. ft); and
(vi) Is located in any county having a population of not less than seven thousand eight hundred fifty-one (7,851) nor more than seven thousand eight hundred sixty-five (7,865), according to the 2010 federal census.
census or any subsequent federal census;

(SSS)(i) A commercially operated resort, restaurant, marina and recreational facility possessing all of the following characteristics:

(a) Is located on at least five (5) acres but no more than seven (7) acres at day marker four (4) as designated by the Tennessee Valley authority on Norris Lake;

(b) Has a marina with at least one hundred forty-five (145) boat slips, most of which are contracted for use on an annual basis, but also includes use for drive-ups;

(c) Rents pontoon, ski, and house boats;

(d) Has a marina store;

(e) Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons;

(f) Has a restaurant that serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events, seasonal reasons, vacations, general maintenance and remodeling by the owners;

(g) Has special events and weddings inside and outside;

(h) Has at least fifty-five (55) condominiums with at least thirty (30) of the condominiums available for rental on a nightly or weekly basis;

(i) Has a restaurant that possesses a beer permit for on and off-premises consumption;

(j) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(k) Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(ii) The facility licensed pursuant to this subdivision (26)(SSS) shall make food available at any time when alcoholic beverages are being served.

(iii) When used in this subdivision (26)(SSS), “facility” means any location within the property as designated by the licensee;

(TTT) A commercially operated marina, restaurant, and recreational facility possessing all of the following characteristics:

(i) Is located on at least thirty-two (32) acres of land located off Old Awalt Road;

(ii) Has a marina with at least two hundred fifty (250) wet slips located on Tims Ford Lake;

(iii) Has a restaurant with a dining room to accommodate at least two hundred (200) patrons;

(iv) Includes at least five (5) rental cabins and a motel with at least (5) rental units on its grounds; and

(v) Has a fuel dock with a stationary tank that holds at least six thousand gallons (6,000 gals.) of fuel;

(UUU) A commercially operated mountaintop resort and recreational facility possessing all of the following characteristics:

(i) Is located on at least one thousand two hundred (1,200) acres at an altitude of between two thousand five hundred feet (2,500') and three thousand feet (3,000');
(ii) Provides nightly lodging in at least eleven (11) furnished suites with balconies, all of which are located in at least two (2) buildings;

(iii) Has a restaurant with a full service kitchen with combined seating indoors and outdoors for at least one hundred (100) patrons; and which serves at least twelve (12) meals on a weekly basis with exceptions of closures for private groups or events; and seasonal closures, vacations, general maintenance and remodeling by the owners; provided, however, that food shall be made available at any time when alcoholic beverages are being served; and such restaurant shall already possess a beer permit for on-premises consumption;

(iv) Hosts special on-site events including weddings, receptions, reunions, corporate meetings, and club or group gatherings;

(v) Has a wooden walkway through chimney rock formations;

(vi) Has a heliport with at least two (2) landing pads;

(vii) When used in this subdivision (26)(UUU), “facility” includes any location within the property as designated by the licensee;

(viii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(ix) Is located in a county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 census or any subsequent federal census;

(VVV) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred thirty (130) boat slips with the capacity to have three hundred seventy-five (375) covered boat slips ranging in size from twenty-four feet (24') to thirty feet (30') deep; and which is located opposite the one hundred and thirty-three and one-third R (133.3R) mile marker on the Clinch River on Norris Lake;

(ii) Has a public pump station;

(iii) Has a restaurant with at least one hundred (100) seats both indoors and outdoors which serves at least six (6) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners;

(iv) Has a ship store;

(v) Has gas docks;

(vi) Has a marina campground with at least twenty (20) campsites with electric, water, and wastewater connections;

(vii) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(viii) The facility is located within a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census. When used in this subdivision (26)(VVV), “facility” includes any location within the property designated by the licensee;

(WWW)(i) A commercially or privately operated facility containing all of the following characteristics:

(a) Is located on Tellico Lake, containing a minimum area of six
hundred fifty (650) contiguous acres;

(b) Has an information and sales center;

(c) Has public access walking trails;

(d) Has a championship golf course of at least eighteen (18) holes;

(e) Does not discriminate against any patron on the basis of age, gender, race, religion or national origin; and

(f) Is located within any county having a population of not less than forty-eight thousand five hundred (48,500) nor more than forty-eight thousand six hundred (48,600), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (26)(WWW) shall mean any or all of the property that constitutes the facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, marinas, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises and such drawing may be amended by the licensee filing a new drawing;

(XXX) A commercially operated private tennis club possessing all of the following characteristics:

(i) Is located on at least thirteen (13) acres of land located off Racquet Club Way;

(ii) Has at least ten (10) indoor hard tennis courts located indoors;

(iii) Has at least five (5) hard tennis courts and at least twelve (12) clay tennis courts located outdoors; and

(iv) Includes a five thousand square foot (5,000 sq. ft.) club house on its grounds;

(YYY) A commercially operated recreational facility possessing all of the following characteristics:

(i) Has a banquet room that seats not less than seventy-five (75) people;

(ii) Has a semi-private golf course of at least eighteen (18) holes;

(iii) Has a club house, restaurant that serves food, and swimming pool;

(iv) Is located not less than one (1) mile from Interstate 40 and is adjacent to Golf Course Road;

(v) Is located in a county having a population of not less than thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census;

(ZZZ) A commercially owned marina, resort and recreational facility possessing each of the following characteristics:

(i) Includes a full service marina that includes at least one hundred (100) covered boat slips, at least thirty-five (35) mooring line buoys, at least five (5) floating home rentals, and offers for rental at least fourteen (14) watercraft of various types including ski-boats, single and double deck pontoons, jet skis, and standup paddle boats; and which is located at Big Creek Mile eight.zero L (8.0L), Whitman Hollow Branch Norris Reservoir;

(ii) Has a restaurant with at least seventy-five (75) seats combined indoors and outdoors, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and
seasonal closures, vacations, general maintenance and remodeling by
the owners; provided, however, that food shall be made available at any
time that alcoholic beverages are being served;
(iii) Has at least seven (7) campsites;
(iv) Has at least two (2) vacation rental homes;
(v) Does not discriminate against any patron on the basis of age,
gender, race, religion, or national origin; and
(vi) Is located in any county having a population of not less than forty
thousand seven hundred (40,700) nor more than forty thousand eight
hundred (40,800), according to the 2010 federal census or any subse-
quent federal census;
(AAAA) A commercially owned marina, resort and recreational facility
possessing each of the following characteristics:
(i) Has a full service marina that includes at least three hundred
(300) boat slips and is located on Norris Lake;
(ii) Has a restaurant with at least seventy-two (72) indoor seats and
seventy-two (72) outdoor seats, which serves at least ten (10) meals on
a weekly basis, with exceptions of closures for private groups or events,
and seasonal closures, vacations, general maintenance and remodeling
by the owners; provided, however, that food shall be made available at
any time that alcoholic beverages are being served;
(iii) Has a motel with at least twenty-four (24) rooms;
(iv) Has at least two (2) vacation rental cabins and at least twenty-
three (23) recreational vehicle (RV) slots;
(v) Does not discriminate against any patron on the basis of age,
gender, race, religion, or national origin; and
(vi) Is located in any county having a population of not less than forty
thousand seven hundred (40,700) nor more than forty thousand eight
hundred (40,800), according to the 2010 federal census or any subse-
quent federal census; and
(BBBB) A commercially operated facility possessing each of the follow-
ing characteristics:
(i) Has adequate kitchen facilities and a dining area within the
facility that has a seating capacity of at least fifty (50);
(ii) Is within four (4) miles of Douglas Lake;
(iii) Is located on the corner of Greenhill Road and Hwy 25-70 within
one (1) mile of I-40 at Exit 415; and
(iv) Is located in a county having a population of not less than
fifty-one thousand four hundred (51,400) nor more than fifty-one thou-
sand five hundred (51,500), according to the 2010 federal census or any
subsequent federal census;
(CCCC)(i) A privately owned resort and recreational facility possessing
each of the following characteristics:
(a) Is located off U.S. Highway 421 in any county having a
population of not less than eighteen thousand two hundred (18,200)
nor more than eighteen thousand three hundred (18,300), according to
the 2010 federal census or any subsequent federal census;
(b) Has a semi-private golf course of at least eighteen (18) holes;
(c) Has at least twenty (20) accommodation units;
(d) Has at least two (2) tennis courts;
(e) Has at least one (1) swimming pool;
(f) Has a restaurant that seats at least fifty (50) people; and

(g) Has a meeting facility;

(ii) The premises of any resort and recreational facility licensed under this subdivision (26)(CCCC) shall mean any or all of the property that constitutes the resort and facility, including, but not limited to, clubhouses, restaurants, gift and pro shops, swimming pools, tennis courts, golf courses, and paths and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, and such drawing may be amended by the licensee filing a new drawing;

(DDDD) It is lawful for any establishment located in a municipality having a population of not less than six hundred (600) nor more than six hundred ten (610), according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than two hundred sixty-two thousand six hundred (262,600) nor more than two hundred sixty-two thousand seven hundred (262,700), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(EEEE) A commercially owned marina, resort, and recreational facility possessing each of the following characteristics:

(i) Includes a full-service marina that includes at least one hundred fifty (150) boat slips and is located on Norris Lake;

(ii) Has at least eight (8) campsites;

(iii) Has a restaurant with at least eighty (80) seats, which serves at least ten (10) meals on a weekly basis, with exceptions of closures for private groups or events, and seasonal closures, vacations, general maintenance, and remodeling by the owners; provided, however, that food shall be made available at any time that alcoholic beverages are being served;

(iv) Does not discriminate against any patron on the basis of age, gender, race, religion, or national origin; and

(v) Is located in any county having a population of not less than forty thousand seven hundred (40,700) nor more than forty thousand eight hundred (40,800), according to the 2010 federal census or any subsequent federal census;

(FFFF) A commercially operated facility possessing each of the following characteristics:

(i) Is located within a one thousand foot (1,000') radius from the intersection of U.S. Highway 41A and University Avenue/Lake O'Donnell Road on property owned by a private institution of higher education, the campus of which is at least ten thousand (10,000) acres;

(ii) Is located in any county having a population of not less than forty-one thousand (41,000) nor more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(iii) Has prepared and served hot food for on-site dining with indoor seating for at least twenty-five (25) persons for at least twenty-four (24) months; and

(iv) Does not discriminate against any patron on the basis of age,
gender, race, religion, or national origin;

(GGGG) An entity that is authorized by the department of environment and conservation to operate a restaurant or other food and beverage service on the premises of a state park;

(HHHH) It is lawful for any establishment located in a municipality having a population of not less than four hundred ninety (490) nor more than four hundred ninety-nine (499) according to the 2010 federal census or any subsequent federal census, which is located in a county having a population of not less than thirty-two thousand two hundred (32,200) nor more than thirty-two thousand three hundred (32,300), according to the 2010 federal census or any subsequent federal census, that is licensed to serve beer to also serve alcoholic beverages and wine to be consumed on the premises, subject to the further provisions of this chapter other than § 57-4-103;

(IIII) A commercially operated facility possessing each of the following characteristics:

(i) Is located in any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Regularly serves meals;

(iii) Contains an adequate and sanitary kitchen;

(iv) Has seating for not less than forty (40) people at tables;

(v) Is located on floatation devices on the Cumberland river in close proximity to a marina; and

(vi) May be seasonally closed;

(JJJJ) A commercially operated recreational facility possessing each of the following characteristics:

(i) Is located:

(a) On at least two thousand five hundred (2,500) acres, approximately eight (8) miles from an interstate highway; and

(b) Along a waterway that flows into a river, a portion of which has been designated as a scenic river;

(ii) Has at least twelve (12) cabins and at least three hundred fifty (350) campsites;

(iii) Has a motor cross trail or trails and a horseback riding trail or trails;

(iv) Has a restaurant with seating for at least one hundred (100);

(v) Has a one thousand six hundred square foot (1,600 sq. ft.) stage at an amphitheater that seats approximately two thousand five hundred (2,500); and

(vi) Has least five (5) hotels or motels located near the facility;

(KKKK) A commercially operated facility containing all of the following characteristics:

(i) Is located:

(a) On at least twenty-two (22) acres;

(b) Within a county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census; and

(c) At least two (2) miles north of the city of Cookeville, Tennessee;

(ii) Has been an LLC corporation since 2013;
(iii) Accommodates overnight lodging for up to fourteen (14) guests;
(iv) Is available for special events for up to five hundred (500) guests, including, but not limited to, weddings, receptions, corporate events, fundraisers, and reunions; and
(v) Has on-site parking for up to two hundred fifty (250) vehicles;

(LLLL) A commercially operated facility possessing all of the following characteristics:
(i) Is located in a home built in 1892;
(ii) Is located on 3rd Avenue South;
(iii) Has eight thousand square feet (8,000 sq. ft.) of space including an outside courtyard;
(iv) Hosts on-site special events including weddings, receptions, and group gatherings;
(v) Has an adequate and sanitary kitchen; and
(vi) Is located in any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(LLLLL) A commercially operated facility possessing all of the following characteristics:
(i) The facility is located on at least two hundred fifty (250) acres;
(ii) The facility provides camping and additional overnight accommodations;
(iii) The facility serves at least one (1) meal per day in a dining room that seats at least fifty (50) persons; and
(iv) The facility must be located within a commercial district which contains a former state penitentiary that was in operation for a minimum of fifty (50) years;

(MMMM) A commercially operated facility containing all of the following characteristics:
(i) Has been in operation as an inn since November 3, 2002;
(ii) Is located within one-half (½) mile of a city park;
(iii) Has a total of eight (8) guest rooms in the main house;
(iv) Has a separate cottage that also houses at least one (1) transient suite, as well as workspaces and storage;
(v) Has at least one (1) kitchen on the premises and offers at least one (1) meal daily;
(vi) Has an open-air, outdoor patio suitable for the accommodation of wedding ceremonies and other events;
(vii) Has been designated historically significant by a county historical commission; and
(viii) Is located in any county having a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(NNNNN) A commercially operated facility possessing each of the following characteristics:
(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons;
(ii) Is licensed to sell beer;
(iii) Is located in a structure of not less than six thousand square feet (6,000 sq. ft.).
(iv) Is located on Drew Howard Road; and
(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;

(PPPP) A commercially operated marina, resort, and recreational facility that:
(i) Is located between day markers fifteen (15) and sixteen (16) on Douglas Lake;
(ii) Operates not less than eighty-eight (88) covered slips, one hundred ten (110) open slips, twelve (12) transient slips, and six (6) house boat slips;
(iii) Operates a full-service store offering fuel, live bait and tackle, food, and beverages;
(iv) Is open not less than three hundred sixty-three (363) days per year;
(v) Rents pontoons, fishing boats, and paddle boards;
(vi) Operates a boat ramp that is open year-round;
(vii) Operates a recreational vehicle (RV) campground with not less than seventy (70) RV sites;
(viii) Operates not less than seven (7) rental properties; and
(ix) Is located in a county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census;

(QQQQ) A commercially operated facility possessing each of the following characteristics:
(i) The facility operates a full service hotel;
(ii) The facility operates a restaurant with not less than thirty-two (32) seats in the dining room, eight (8) seats in the bar, and twenty-eight (28) outdoor seats located under a wrap-around porch;
(iii) The facility operates a nine-hole golf course and a golf lodge;
(iv) The facility serves as a wedding and events venue; and
(v) The facility is located within one (1) mile of Highway 41A and within two (2) miles of Lake O’Donnell in a county with a population of not less than forty-one thousand (41,000) and not more than forty-one thousand one hundred (41,100), according to the 2010 federal census or any subsequent federal census;

(RRRR) A commercially operated facility possessing all of the following characteristics:
(i) Has a restaurant open at least six (6) days a week with seating at tables for at least one hundred (100) persons and with additional seasonal seating on a patio for at least eighty (80) persons;
(ii) Is licensed to sell beer;
(iii) Is located in a structure of not less than two thousand five hundred square feet (2,500 sq. ft.);
(iv) Is located on Peavine Road; and
(v) Is located in any county having a population of not less than fifty-six thousand (56,000) nor more than fifty-six thousand one hundred (56,100), according to the 2010 federal census or any subsequent federal census;
A commercially operated facility having all of the following characteristics:

(a) The facility has approximately sixty-one thousand square feet (61,000 sq. ft.) of interior space;

(b) The facility is located not more than six thousand feet (6,000') southwest of a federal interstate highway and not more than two hundred feet (200') west of a federal highway;

(c) The property that the facility is located on is not less than five hundred seventy-five feet (575') and not more than six hundred fifteen feet (615') above sea level;

(d) The facility was originally constructed in 2017;

(e) The facility has one (1) permanent structure containing five (5) stories and includes at least one (1) commercial kitchen, an atrium with a glass ceiling having a height of at least thirty feet (30') with live trees, and a rooftop deck with table service;

(f) The facility is located in or adjacent to a commercial real estate development containing approximately one hundred (100) specialty stores and eateries, and a movie theater;

(g) The facility is located within one hundred feet (100') of a commercial bank that is a member of the federal deposit insurance corporation;

(h) The facility is approximately one thousand eight hundred twenty feet (1,820') to the northeast of Sugartree Creek;

(i) The facility is approximately four hundred seventy feet (470') to the northwest of the main building of a public high school that was originally constructed before 1939;

(j) The facility is approximately one thousand four hundred fifty feet (1,450') to the southwest of a public library that was originally constructed before 2000;

(k) The facility is located within a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census; and

(l) The facility must not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (26)(SSSS) means any or all of the property that constitutes the facility. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

An agritourism facility possessing all of the following characteristics:

(i) Is located on at least three hundred (300) owned or leased acres;

(ii) Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(iii) Is bounded on one (1) side by at least three-quarters (¾) of a mile of the Cumberland River and on the other side by one-half (½) of a mile of a state scenic highway;

(iv) Has been certified as an organic farm for a period of at least three (3) years prior to the date of the initial application for a license;
(v) Is primarily zoned agricultural and operates an on-farm market on that site in addition to possessing substantial acreage of green space at the date of initial application for a license; and
(vi) Maintains meeting centers for community events;

(UUUU)(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately six (6) acres of land that is adjacent to two (2) permanent structures which are owned by the same owner of the facility having approximately seventy thousand square feet (70,000 sq. ft.) of retail and office commercial space, and is located no more than three hundred feet (300') from a federal highway;

(b) The facility has at least one (1) permanent structure with approximately sixty thousand square feet (60,000 sq. ft.) located no more than five hundred feet (500') from a federal highway and less than two thousand five hundred feet (2,500') south of a commercial railroad track. The structure is not less than five hundred twenty-five feet (525') and not more than five hundred seventy-five feet (575') above sea level. The structure was renovated in 2016 and 2017;

(c) The facility formerly housed a supermarket business that closed in 2012;

(d) The facility is approximately two thousand two hundred feet (2,200') to the south of a facility that is accredited by the Association of Zoos and Aquariums that is open to the public;

(e) The facility is located no more than seven thousand feet (7,000') from a railyard of a Class 1 railroad, as defined by the surface transportation board of the United States department of transportation; and

(f) The facility is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (26)(UUU) means any or all of the property that constitutes the facility. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises is covered under one (1) license issued under this subdivision. The licensee and any other entity in the facility licensed under chapter 4 of this title may, upon filing notice with the commission, share a common licensed area on the premises of the facility. The commission shall enforce the provisions of chapter 4 of this title against each licensee on the premises of the facility and shall not cite, penalize, or take any other adverse action against a licensee for any violation committed by another licensee within a common licensed area on the premises of the facility. There is a rebuttable presumption of liability for a specific licensee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the licensee, the commission may determine which licensee to cite for an underage sale. If the commission is unable to determine which licensee committed a violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more licensees that share
the common licensed area where the violation occurred;

(iii) The licensee and any other licensed entity in the facility that
holds a license under this chapter may store beer and alcoholic bever-
ages in a central storage location in the facility. Each licensed entity
shall store its inventory of beer and alcoholic beverages in a separately
locked cage or other storage area;

(iv) Notwithstanding any provision of chapter 5 of this title to the
contrary, the premises of any facility licensed under this subdivision
(26)(UUUU) means, for beer permitting purposes, any or all of the
property that constitutes the facility. The beer permittee shall designate
the premises to be permitted by the local beer board by filing a drawing
of the premises, which may be amended by the beer permittee filing a
new drawing. The entire designated premises is covered under one beer
permit issued under chapter 5 of this title. The beer permittee and any
other entity in the facility that holds a beer permit issued by the local
beer board may, upon filing notice with the beer board, share a common
permitted area on the premises of the facility. The beer board shall
enforce the provisions of chapter 5 of this title against each permittee on
the premises of the facility and shall not cite, penalize, or take any other
adverse action against a permittee for any violation committed by
another permittee within a common permitted area on the premises of
the facility. There is a rebuttable presumption of liability for a specific
permittee for any underage sale based on the specific type of glass or the
brand on the cup provided to the minor. In the absence of a glass or cup
identifying the permittee, the beer board may determine which permit-
tee to cite for an underage sale. If the beer board is unable to determine
which permittee committed a violation after conducting a reasonable
investigation, the beer board may issue a citation to one (1) or more
permittees that share the common permitted area where the violation
occurred;

(v) Notwithstanding § 57-3-806(f), the owner of the facility may
prohibit or restrict, through its lease or other agreements with other
businesses, the on-premise sale of beer or alcoholic beverages by other
businesses at the facility;

(vi) Notwithstanding § 57-4-101(n), table service is not required for
the service of alcoholic beverages or beer as authorized by this subdivi-
sion (26)(UUUU); and

(vii) The facility, landlord, or any licensee shall provide periodic
security for the entire licensed premises;

(VVVV)(i) A commercially operated recreational facility, whether open
to the public or limited to members and guests of a corporation, limited
liability company, or association, or of a development in which it is
located, owned, and operated by a corporation, limited liability company,
or association, having all of the following characteristics:

(a) The facility is located in or adjacent to a residential real estate
development containing between seven hundred (700) and eight
hundred (800) acres, a portion of which was formerly the home of a
music industry entertainer who began her career with a successful
recording at the age of thirteen (13);

(b) The facility has at least one (1) permanent structure, open to
the public or to members and their guests, having at least two
thousand square feet (2,000 sq. ft.);

(c) The closest boundary of the real estate development in which the facility is located must be located no more than three thousand feet (3,000') from the right-of-way of Interstate 840 and situated between Cox and Patton roads;

(d) The facility maintains a golf course having at least eighteen (18) holes, which has a current or past golf professional on staff at the golf course;

(e) The facility has at least one (1) room or rooms that are regularly kept, used, and maintained as a place where meals are regularly served, with adequate and sanitary kitchen facilities and seating at tables for at least thirty (30) persons;

(f) The facility is located on property with elevations that vary between less than seven hundred fifty feet (750') above sea level to more than nine hundred fifty feet (950') above sea level;

(g) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(h) The planning commission of a county in which the facility is located has approved of subdividing the property into more than four hundred (400) residential lots that can be offered for sale for home construction; and

(i) The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (26)(V V V V) shall mean any or all of the property that constitutes the facility, including swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(W W W W) (i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately twenty-seven (27) acres of land that is adjacent to a tributary of Arrington Creek and located along U.S. Route 96;

(b) The facility has at least one (1) permanent structure constructed in 2016 with at least eight thousand four hundred square feet (8,400 sq. ft.) of climate-controlled space;

(c) The facility is on property that has a lake with an island having approximately nine thousand square feet (9,000 sq. ft.) of space that contains outdoor amenities, including a sound system;

(d) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) and not more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census; and

(e) The facility does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(ii) The premises of any facility licensed under this subdivision (26)(W W W W) means any or all of the property that constitutes the
facility, including a barn, man-made island, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing; and

(i) A commercially operated facility possessing the following characteristics:

(a) The facility is located on at least twenty (20) acres;
(b) The facility provides overnight accommodations with no less than fifty (50) guest rooms;
(c) The facility serves at least one (1) meal per day in a dining room that seats at least seventy-five (75) persons;
(d) The facility is located on property that is within one-quarter (1/4) mile of the intersection of Carters Creek Pike and Southall Road; and
(e) The facility is located in a county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (26)(XXXX) means any or all of the property that constitutes the facility, including restaurants, cabins, lodges, clubhouses, swimming pools, tennis courts, golf courses, paths, and road crossings. A licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing;

(iii) Any facility licensed under this subdivision (26)(XXXX) may be issued one (1) or more licenses for consumption on the premises;
(iv) Any facility licensed under this subdivision (26)(XXXX) may seek an additional license as a caterer under § 57-4-102(6);
(v) Any facility licensed under this subdivision (26)(XXXX) may hold any of the licenses authorized under this subdivision (26)(XXXX) or may grant a franchise to one (1) or more entities for any or all such licenses;
(vi) Any facility licensed under this subdivision (26)(XXXX) may deliver sealed bottles to any area within the licensed premises of the facility;

(27)(A) “Premises,” when:

(i) Referring to an establishment licensed under this chapter;
(ii) Such establishment is located within an historical district which has been designated as a national historic landmark;
(iii) Such a national historic landmark centers around a public street or right-of-way; and
(iv) Such a public street or right-of-way is closed to motor vehicular traffic on a regular basis;

includes the area encompassed by the boundaries of the historic district; provided, that the granting of a license for a business location within such historical district shall not preclude the granting of another license to another establishment located within the boundaries of the historic district. This subdivision (27) applies only to counties with a population of more than four hundred thousand (400,000), according to the 1980 census, but those counties having a metropolitan form of government shall be
exempt from this subdivision (27). In such county, only for the purposes of
the hours of sale provided in § 57-4-203(d)(4), “premises” also includes
any establishment located within four (4) blocks west of the western
boundary of the historic district and on the same public street or right of
way as the historic district; provided, that the requirement of closing the
street or right-of-way to motor vehicular traffic on a regular basis shall not
apply to the extension of the premises established by this sentence;
(B)(i) “Premises,” when:
(a) Referring to an establishment licensed under this chapter;
(b) Such establishment is located within a central improvement
district; and
(c) The central improvement district is located in a county having a
metropolitan government that has a population in excess of five
hundred thousand (500,000), according to the 2010 federal census or
any subsequent federal census;
includes only the area located between a convention center, its
designated convention center hotel, and a museum that is attached to
the convention center hotel; and the one (1) block of public roadway on
Fifth Avenue between Demonbreun Street and Korean Veterans Boule-
vard; and
(ii) This subdivision (27)(B) shall only be effective in any county upon
the adoption of a resolution by a majority vote of the local legislative
body approving the use of this definition of “premises”;
(C) “Premises,” when:
(i) Referring to one (1) or more establishments licensed under this
chapter; and
(ii) Such establishments are located:
(a) Within a home rule municipality in a county with a population
of not less than three hundred thirty-six thousand four hundred
(336,400) and not more than three hundred thirty-six thousand five
hundred (336,500), according to the 2010 federal census or any
subsequent federal census; and
(b) Within or adjacent to an area that is a five hundred seventy-five
foot (575') paver lined street with a right of way that is approximately
forty feet (40') wide extending from Market Street on the western
boundary to Rossville Avenue on the eastern boundary; that is
bordered along its northern boundary by a historic railroad terminal
station that has been listed on the National Register of Historic Places
since 1974; and that is bordered along its northern boundary by
property zoned for urban-industrial mixed use and along its southern
boundary by property that is zoned for urban-commercial mixed use;
includes the area described in subdivision (27)(C)(ii)(b). The granting
of a license for a business located within or adjacent to the boundaries
of the area described in subdivision (27)(C)(ii)(b) does not preclude the
granting of another license to another establishment located within or
adjacent to such area;
(28) “Public aquarium” means a facility which contains a collection of
living aquatic animals whose sole or primary habitat is water and which
facility provides for care and housing for public exhibition, and also pos-
sesses the following characteristics:
(A) The exhibits containing live aquatic animals for public viewing are
housed in a building having at least one hundred thousand square feet
(100,000 sq. ft.) of interior space;

(B) The exhibits containing live aquatic animals for public viewing contain a minimum total of five hundred thousand gallons (500,000 gals.) of water as the living environment of the animals; and

(C) The public aquarium is located in a county having a population in excess of two hundred fifty thousand (250,000), according to the 1990 federal census or any subsequent federal census;

(29)(A) “Restaurant” means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least forty (40) people at tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. An establishment shall be eligible for licensure as a restaurant in accordance with this part, if the establishment is open at least three (3) days a week, with the exception of holidays, vacations, periods of redecorating and seasonal closings, and more than fifty percent (50%) of the gross revenue of the restaurant is generated from the serving of meals. As used in this subdivision (29), “seasonal closing” means the period from November 1 to March 1 or a period of time, if different from such dates, as filed by the restaurant with the alcoholic beverage commission;

(B) “Restaurant” also means any bowling center that was licensed as of January 1, 1983, to sell alcoholic beverages for consumption on the premises;

(C)(i) Within a national historical landmark district or urban park center, as defined by this section, restaurant licensees shall not be required to meet any requirements of this section which make food service, maintenance of a kitchen, or a dining room a prerequisite to the issuance of a restaurant permit to serve liquor by the drink. This subdivision (29)(C) applies only to counties with a population of more than four hundred thousand (400,000), according to the 1980 census, but those counties having a metropolitan form of government shall be exempt from this subdivision (29)(C);

(ii) Within a sports authority facility as defined in this section, restaurant licensees shall not be required to meet any of the requirements of subdivision (29)(A) which make food service, maintenance of a kitchen, or a dining room a prerequisite for the issuance of a permit to serve liquor by the drink;

(D) Notwithstanding the minimum seating capacity established in subdivision (29)(A), for the purpose of a permit to serve wine, “restaurant” means any lodge or resort with sleeping accommodations where meals are served that is located on land which is owned by the United States department of the interior, is operated by the national park service or its agents or contractors and is located in a county with a population of not less than forty-one thousand four hundred (41,400) nor more than forty-one thousand five hundred (41,500), according to the 1980 federal census or any subsequent federal census;

(E) [Deleted by 2014 amendment, effective May 22, 2014.]

(F) “Restaurant” also means a facility located in any municipality having a population in excess of one hundred thousand (100,000), accord-
ing to the 1990 federal census, or any subsequent federal census, in which coffees, teas, pastries, and other foodstuffs are offered for sale for consumption on the premises, which facility has a seating capacity of at least thirty (30) seats and which facility obtains at least fifty percent (50%) of its annual gross sales from the sale of coffees, teas and pastries. Any restaurant licensed under this subdivision (29)(F) shall be authorized to sell alcoholic beverages for consumption on the premises only when such beverages are mixed with coffees, teas and other beverages. A restaurant licensed under this subdivision (29)(F) need not meet the requirement of subdivision (29)(A);

(G) “Restaurant” also means a facility:
(i) Located within one half (½) mile of the railroad tracks in the unincorporated area of any county having a population of not less than thirty thousand two hundred (30,200) nor more than thirty thousand four hundred seventy-five (30,475), according to the 1990 federal census or any subsequent federal census;
(ii) Whose primary source of income is from serving meals to its patrons, both indoors and out-of-doors, and has a total seating capacity of at least seventy-five (75) people at tables;
(iii) Located in a building having a total square footage of at least two thousand five hundred square feet (2,500 sq. ft.) which was constructed prior to 1925; and
(iv) Which is located on a site used during the Civil War or within two (2) miles of two (2) or more Civil War sites, or is within one and one half (1 ½) miles of a home that was built in 1884, and which is preserved as the area’s best example of the Queen Anne and Eastlake architectural styles;

(H) [Deleted by 2015 amendment]

(I) “Restaurant” also means a facility:
(i) Located on Highway 243 in a county having a population of not less than sixty-nine thousand four hundred (69,400) nor more than sixty-nine thousand five hundred (69,500), according to the 2000 federal census or any subsequent federal census;
(ii) That has seating for not more than one hundred forty (140) people;
(iii) That has a music and entertainment orientation;
(iv) Whose primary source of income is derived from serving meals to its patrons;
(v) That has a historic working original malt and soda fountain;
(vi) That is located in a historical structure formerly used as a town hall as well as a practice venue for Grand Ole Opry hopefuls; and
(vii) That does not discriminate against any patron on the basis of age, gender, race, religion or origin;

(J) “Restaurant” also means a facility that:
(a) Is owned, operated or leased by a for-profit organization organized under the laws of this state;
(b) Does not discriminate against any patron on the basis of gender, race, religion or national origin;
(c) Provides food service to the public or for private events and catering with seating capacity for at least two hundred fifty (250) persons at tables, whether or not the seating is inside or on a deck or
(d) Is open at least five (5) days a week serving two (2) meals daily with the exception of holidays, vacations, seasonal conditions and periods of redecorating, with suitable kitchen, dining facilities and equipment;

(e) Is in the center of a full service marina and resort located on the Tennessee River at mile marker 477.5; which full service marina has at least six hundred (600) dry storage slips and wet slips up to eighty feet (80’) that offers two (2) cabins completely furnished and an inn with twelve (12) rooms that overlooks the Tennessee River; and

(f) Is located in any county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census;

(ii) A restaurant under this subdivision (29)(J) must comply with all the requirements of this chapter and shall be subject to the restrictions imposed upon licenses other than § 57-4-103; and

(K) “Restaurant” also means a facility:

(i) Located on State Route 46, Old Hillsboro Road, in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;

(ii) Which is located 1.66 miles from the Natchez Trace Parkway Exit off of Pinewood Road;

(iii) Whose primary source of income is from serving meals to its patrons;

(iv) Which first opened as a restaurant in 1968;

(v) Which does not operate as a grocery store; and

(vi) Which does not discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(L) “Restaurant” also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is a twenty-four-hour-a-day diner;

(iii) Is located in a central business improvement district as of 2017;

(iv) Serves full meals and has a full-time kitchen staff, twenty-four (24) hours a day;

(v) Holds a valid license from the commission;

(vi) Is located in a separate, unattached building;

(vii) Does not permit live music or entertainment, nor share walls with any establishment offering live music or entertainment; and

(viii) Has six (6) floors and at least seventeen thousand square feet (17,000 sq. ft.);

(M) “Restaurant” also means a facility that:

(i) Is located in a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(ii) Is situated to the east and to the west of the Cumberland River in Pennington Bend;
(iii) Is located approximately two thousand feet (2,000’) to the northwest of a resort and convention center;
(iv) Is a venue for live music;
(v) Has an outdoor deck that is approximately three thousand square feet (3,000 sq. ft.); and
(vi) Operates a restaurant that is approximately eight thousand square feet (8,000 sq. ft.) with a seating capacity of approximately two hundred fifty (250);

(30) “Retirement center” means a facility that contains each of the following characteristics:
(A) The center is located in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census;
(B) The center is located on a single parcel of land not less than forty eight (48) acres and not more than forty-nine (49) acres in area;
(C) The center will consist of individual living unit apartments, individual living unit villas, an assisted living facility, a nursing home facility, a club house and common areas;
(D) The center will have a club house that houses a health club, game room, lounge and a dining facility;
(E) The center’s lounge in the club house will offer to the center’s residents and their guests only food, non-alcoholic beverages, mixed alcoholic drinks, wine and beer, as well as make available in the dining facility and other areas within the center’s property, for the center’s residents and guests only, mixed alcoholic drinks, wine and beer; and
(F) The center does not discriminate against any patron on the basis of gender, race, religion or national origin;

(31) “Special historic district” means any area with specific boundaries that possesses the following characteristics:
(A) Was organized pursuant to a municipal urban planning and development board;
(B) Contains within such special historic district an historic district listed on the national register of historic places;
(C) Is located on a trolley line; and
(D) Is located in any county having a population of eight hundred thousand (800,000) or more, according to the 2000 federal census or any subsequent federal census;

(32)(A) “Special occasion license” means a license which the commission may issue to a bona fide charitable, nonprofit or political organization. Such license shall be issued for no longer than one (1) twenty-four-hour period, subject to the limitations of hours of sale which may be imposed by law or regulation, and such license may be issued in advance of its effective date;
(B) If a bona fide charitable or nonprofit organization owns and maintains a permanently staffed facility which:
(i) Is used for the periodic showing or exhibition of animals;
(ii) Has a seating capacity of not less than twenty-five thousand (25,000) persons; and
(iii) Has a separate permanently constructed clubhouse or meeting room located on the grounds,
then a special occasion license may be issued for use at the clubhouse or
meeting room for the duration of the particular show or exhibit for which application is made, and such organization shall not be subject to the numeric limitation contained in the last sentence of this subdivision (32). This license shall only be available upon the payment of the fee as required by law for each separate day of the show;

(C) Such license shall not be issued unless and until there shall have been paid to the commission for each such license a license fee of one hundred dollars ($100), and there shall have been submitted an application which designates the premises upon which alcoholic beverages shall be served. No such charitable, nonprofit or political organization shall be eligible to receive more than twelve (12) special occasion licenses in any calendar year;

(D) A special occasion license under this section may also be issued to a nonprofit historical society for the purpose of serving complimentary samples of homemade wine manufactured in the Swiss tradition by a society member or members, the complimentary samples not to exceed one ounce (1 oz.) per wine type per person to be served at an annual festival conducted by a society celebrating the Swiss heritage at a farm museum in any county having a population of not less than fourteen thousand three hundred (14,300) nor more than fourteen thousand four hundred (14,400), according to the 2000 federal census or any subsequent federal census;

(E) Any entity holding a special occasion license issued under this subdivision (32) or members of the licensee may transport wine and other alcoholic beverages to the location for which the special occasion license is issued;

(F) “Special occasion license” also means a license, issued by the commission, to a bona-fide charitable organization, recognized as exempt from taxation by the internal revenue service pursuant to § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), which organization has been in continuous operation as a tax-exempt entity for at least twenty (20) years, and which organization has an annual budget of at least one million dollars ($1,000,000). A special occasion license issued pursuant to this subdivision (32)(F) shall be authorized to sell wine in closed containers for consumption on or off the premises notwithstanding the restrictions of § 57-4-203. Any licensee holding a license issued pursuant to § 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207, § 57-3-605 or § 57-4-101 may donate wine to an organization holding a special occasion license issued pursuant to this subdivision (32)(F) for an event conducted by the special occasion licensee. Any resident of Tennessee may donate wine, which brand of wine has been registered pursuant to § 57-3-301, to an organization holding a special occasion license issued pursuant to this subdivision (32)(F) for sale or consumption at an event conducted by the special occasion licensee;

(G) A special occasion license under this section may also be issued to a bona fide charitable organization that benefits charities which support women and children in Middle Tennessee and which:

(i) Holds the event in a county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census, on property used as a veterinary clinic located on a six and sixty-five one hundredths (6.65) acre lot that shares a common boundary between a municipality
and the unincorporated area of such county;

(ii) Jurisdictions within the boundaries of such county have by referendum adopted both the sale of alcoholic beverages at retail package stores and for consumption on the premises;

(iii) Is a one-day annual event restricted to persons twenty-one (21) years of age or older;

(iv) Holds a grape stomp contest with teams made up of four (4) stompers and one (1) swabbie, who collects the juice created by the stompers in a jar, with the team producing the most juice winning the contest;

(v) Includes numerous food vendors;

(vi) Has wine and spirits tastings; and

(vii) Where alcoholic beverages are served but not sold;

(H) A special occasion license under this section may also be issued to a nonprofit community association for the purpose of serving samples of wine to persons holding a presold ticket for an annual fundraiser, the samples not to exceed two ounces (2 oz.) per wine per person to be served at the annual fundraiser conducted by the community association in any county having a population of not less than one hundred twenty-six thousand six hundred (126,600) nor more than one hundred twenty-six thousand seven hundred (126,700), according to the 2000 federal census or any subsequent federal census. The fundraiser shall be an insured event with at least ten (10) wineries or restaurants participating in the event and food shall be available to attendees;

(33)(A) “Sports authority facility” means a facility possessing the following characteristics:

(i) The facility is owned or operated by a sports authority established under title 7, chapter 67, a public building authority or a governmental entity;

(ii) The facility is designed and used for presentation of professional sporting events and other activities, such as amateur sporting events, recreational activities and entertainment events and activities, and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate liquor by the drink as well as food patronage;

(iii) A major or minor league professional baseball (American, National or Minor League), football (National Football League), basketball (National Basketball Association) or hockey (National Hockey League) franchise has entered into a long-term agreement to play its home games in the facility; and

(iv) The facility is located in a municipality or county having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(B) “Sports authority facility” also means a facility possessing the following characteristics:

(i) The facility includes a stadium that was constructed in 1997 and that has a seating capacity of twenty thousand (20,000) or more;

(ii) The facility is designed and used for sporting and other municipal events;

(iii) The facility is located in a home rule municipality located in a county with a population of not less than three hundred thirty-six
thousand four hundred (336,400) and not more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census; and

(iv) The facility is located not more than one-half (1/2) mile from the Tennessee River;

(34) “Suite” means any room or group of rooms, leased by the operator of a sports authority facility or a convention center, physically located within such facility or center, where access to such room or rooms is restricted to the lessee or such lessee’s guests;

(35) “Tennessee River resort district” means a club, hotel, motel, restaurant or limited service restaurant located within a jurisdiction that has elected Tennessee River resort district status pursuant to § 67-6-103(a)(3)(F); provided, that for the purposes of this chapter, such district shall only extend inland for three (3) miles from the nearest bank of the Tennessee River. No entity licensed to sell alcoholic beverages within the boundaries of any such resort district shall discriminate against any patron on the basis of age, gender, race, religion, or national origin;

(36) “Terminal building of a commercial air carrier airport” means a building, including any concourses thereof, used by commercial airlines and their customers for sale of airline tickets, enplaning and deplaning of airline passengers, loading and unloading of baggage and cargo, and for providing other related services for the convenience of airline passengers and others, located in any airport which is served by one (1) or more commercial airlines, and:

(A) Is operated by a board of commissioners whose membership is appointed by the legislative bodies of five (5) or more local governments or whose membership is appointed pursuant to § 42-4-105; or

(B) Is located in a municipality where this chapter has become effective in that municipality;

(37)(A) “Theater” means any establishment in which motion pictures are exhibited to the public regularly for a charge. Such theater shall have an area that is enclosed by glass and which is accessed through a set of double doors by patrons who must be twenty-one (21) years of age or older to enter. Such theater shall be part of a retail and entertainment complex located one (1) block from a historical district that has been designated as a national historic landmark that centers around a public street or right-of-way. Such theater shall be located in a county having a population of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census;

(B) “Theater” also means any establishment in which motion pictures are exhibited to the public regularly for a charge and which possesses the following characteristics:

(i) Is a twelve (12) auditorium theater that is one hundred percent (100%) digital;

(ii) Is certified by the United States Green Building Council as the nation’s first stand-alone theater boasting energy and environmental sensitive design;

(iii) Has one (1) auditorium restricted to patrons twenty-one (21) years of age or older; and

(iv) Is located downtown near a river in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900),
according to the 2000 federal census or any subsequent federal census;
(C) “Theater” also means an establishment in which motion pictures are exhibited to the public regularly for a charge. The theater shall have a local beer permit for on-premises consumption. The theater shall regularly serve prepared food to patrons and each auditorium in which alcoholic beverages may be consumed shall allow dining at each seat in the auditorium. Prior to making a sale of any alcoholic beverage, a valid, government-issued document, such as a driver license or other form of identification deemed acceptable to the license holder that includes a photograph and date of birth of the adult consumer attempting to make the purchase, shall be produced to the licensee. The theater shall also periodically visually monitor all auditoriums in which alcoholic beverages are permitted and each beverage containing an alcoholic beverage shall be distinct from any other container used to serve nonalcoholic beverages;
(38)(A) “Urban park center” means a facility or designated area possessing the following characteristics:
(i) The center is owned, operated, or leased by a municipal or county government, or any agency or commission thereof;
(ii) The center is designed to contain outdoor recreational facilities, public museum buildings, exhibition buildings, retail sales areas, retail food dispensing outlets including, but not limited to, sale of package alcoholic and malt beverages, and restaurant areas to accommodate liquor-by-the-drink as well as food patronage; and
(iii) The center is located in a municipality or county having a population in excess of six hundred thousand (600,000), according to the 1970 federal census or any subsequent census;
(B)(i) “Urban park center” also means an outdoor fixed structure amphitheater utilized as a performance venue, containing fixed seating for at least five thousand one hundred (5,100) persons. Such facility or designated area shall be secured by adequate perimeter fencing.
(ii) This subdivision (38)(B) applies in any county with a metropolitan form of government with a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;
(C) “Urban park center” also means a facility or designated area that possesses the following characteristics:
(i) Consists of at least two (2) theater spaces in which live theater, concerts, and films are presented;
(ii) Contains at least ten thousand square feet (10,000 sq. ft.);
(iii) Contains permanent fixed seating for at least three hundred forty-nine (349) persons;
(iv) Contains one (1) performance space constructed prior to 1930 that contains a stage with a fly tower for stage rigging with a height of at least thirty feet (30’);
(v) Is operated by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code, § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), and such facility or designated area is not a religious organization or a secondary or elementary school;
(vi) A major street is located not more than one hundred feet (100’) from the nearest exterior wall of such facility or designated area; and
(vii) Is located within the jurisdictional limits of a county with a metropolitan form of government having a population of not less than five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census;

(D) “Urban park center” also includes a facility or designated area possessing each of the following characteristics:

(i) Is owned, operated or leased by a municipal or county government, or any agency or commission thereof;

(ii) Has an outdoor fixed structure amphitheater utilized as a performance venue;

(iii) Provides or leases facilities for concerts, plays and programs of cultural, civic and educational interest; and

(iv) Is located in any municipality that has authorized the sale of alcoholic beverages for consumption on the premises, in a referendum in the manner prescribed by § 57-3-106, and the municipality has a population of not less than twenty-three thousand nine hundred twenty (23,920), nor more than twenty-three thousand nine hundred thirty (23,930), according to the 2000 federal census or any subsequent federal census;

(E) “Urban park center” also means a facility or designated area that possesses each of the following characteristics:

(i) Is owned and maintained by a bona fide charitable or nonprofit organization;

(ii) Is used for the periodic showing or exhibition of animals;

(iii) Has a seating capacity of not less than twenty-five thousand (25,000) persons;

(iv) Includes an arena and a permanently constructed clubhouse or meeting room located on the grounds; and

(v) Is located in any county having a population of not less than forty-five thousand (45,000) nor more than forty-five thousand one hundred (45,100), according to the 2010 federal census or any subsequent federal census;

(F)(i) “Urban park center” also means a facility or designated area possessing each of the following characteristics:

(a) Is located on a tract or tracts of land having at least five (5) contiguous acres;

(b) Is located directly adjacent to property owned or leased by an airport authority created under state law;

(c) Has an enclosed facility or designated area of at least twenty thousand square feet (20,000 sq. ft.) and one (1) room with more than fourteen thousand square feet (14,000 sq. ft.);

(d) Has an exterior garden or gardens with sculpture;

(e) Is leased or owned by a not-for-profit corporation that qualifies under § 501(c)(3) of the Internal Revenue Code; and

(f) Is located within a county having a metropolitan form of government with a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(ii) An urban park center licensed under this subdivision (38)(F) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder
of such franchise shall also be considered an urban park center under this subdivision (38)(F). The premises of an urban park center under this subdivision (38)(F) shall include all enclosed and outdoor areas of the property described in this subdivision (38)(F);

(G) “Urban park center” also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in a building constructed in 1883 that was originally used as a flour mill and eventually became a cannery;

(ii) Is an entertainment complex open to the public with three (3) facilities used for live music performances;

(iii) Serves or sells food to patrons;

(iv) Is approximately fifty-two thousand square feet (52,000 sq. ft.); and

(v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(H) “Urban park center” also includes a facility or designated area possessing each of the following characteristics:

(i) Is located approximately two (2) blocks from Interstate 40;

(ii) Is located in a building constructed in the 1920s as an automobile factory;

(iii) Is located in a building remodeled in 2011 as a live music venue open to the public;

(iv) Serves or sells food to patrons; and

(v) [Deleted by 2014 amendment, effective May 22, 2014.]

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(I) “Urban park center” also includes a facility or designated area possessing each of the following characteristics:

(i) Is located in the historic Elliston Place neighborhood;

(ii) Is located approximately three (3) blocks from a private university and approximately one (1) block from a non-profit hospital;

(iii) Serves or sells food to patrons;

(iv) Was opened to the public in 1971 as a live music venue;

(v) Has a stage that is four feet (4') high and has an indoor balcony; and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census;

(J) “Urban park center” also includes a facility or designated area possessing each of the following characteristics:

(i) Is located on 8th Avenue approximately one (1) block from Interstate 65;

(ii) Is a live music venue that opened to the public in 2001;

(iii) Is located beneath an independent and nationally acclaimed record store;

(iv) Serves or sells food to patrons;

(v) Is approximately one thousand eight hundred square feet (1,800 sq. ft.); and

(vi) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000),
according to the 2010 federal census or any subsequent federal census; (K) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:
  (i) Is located on Forrest Avenue across from a branch of a public library;
  (ii) Is a live music venue that promotes local artists that opened to the public in 2003;
  (iii) Serves or sells food to patrons;
  (iv) Is approximately two thousand seven hundred square feet (2,700 sq. ft.) and has an enclosed exterior patio; and
  (v) Is located within a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census; (L) "Urban park center" also includes a facility or designated area possessing each of the following characteristics:
  (i) Is located on First Avenue South;
  (ii) Is owned, operated, or leased by a governmental entity;
  (iii) Is a facility or designated area designed and used for the presentation of live outdoor music and other events and includes retail sales areas and retail food dispensing outlets, including, but not limited to, restaurant areas to accommodate sales of alcoholic beverages and food; and
  (iv) Is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census; (M)(i) "Urban park center" also includes a facility possessing each of the following characteristics:
    (a) Is located on a tract or tracts of land having at least fifty (50) contiguous acres;
    (b) A state highway is not more than seven hundred fifty feet (750') from the nearest property line;
    (c) A commercial railroad track is not more than seven hundred fifty feet (750') from the nearest property line;
    (d) Is adjacent to a municipal park having over one thousand nine hundred (1,900) acres;
    (e) Has an art museum that was originally constructed prior to 1935 as a private residence;
    (f) Has exterior gardens with a stream or streams, pools, fountains, and a stone grotto;
    (g) Has a woodland sculpture trail that is over one (1) mile in length;
    (h) Is leased or owned by a not-for-profit corporation that qualifies as tax exempt under the Internal Revenue Code § 501(c)(3), (26 U.S.C. § 501(c)(3)); and
    (i) Is located within a county having a metropolitan form of government and a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;
  (ii) An urban park center licensed under this subdivision (38)(M) shall have the privilege of granting a franchise pursuant to a written contract for a period of not less than one (1) year for the provision of food
or beverage, including alcoholic beverages, on the premises of the urban park center, and the holder of such franchise shall be disclosed to the commission consistent with the disclosures made by the licensee and shall also be considered an urban park center under this subdivision (38)(M). The premises of an urban park center licensed under this subdivision (38)(M) shall include all enclosed and outdoor areas of the property described in this subdivision (38)(M);

(N)(i) “Urban park center” also includes a commercially operated facility having all of the following characteristics:

(a) The facility is located on approximately one and seven-tenths (1.7) acres of land and has approximately thirty-eight thousand one hundred thirty-five square feet (38,135 sq. ft.) of interior space;

(b) The facility is located no more than ten thousand one hundred feet (10,100') from a federal interstate highway and less than three thousand two hundred feet (3,200') west of a commercial railroad track. The structure must be not less than two hundred seventy feet (270') and not more than three hundred feet (300') above sea level. The structure must have been originally constructed in 2017;

(c) The facility is located on a property that is adjacent to the intersection of Madison Avenue and Cooper Street;

(d) The property that the facility is located on must have previously housed a structure used as a hotel business that was demolished in 2015;

(e) The facility must be approximately one thousand six hundred eighty feet (1,680') to the south of a public park located on approximately three hundred forty-two (342) acres and that has a zoo that is accredited by the Association of Zoos and Aquariums that is open to the public;

(f) The facility consists of at least five (5) studio spaces in which live dance is performed, rehearsed, and instructed;

(g) The facility is operated by a not-for-profit corporation that qualifies as tax exempt under § 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(3), and such facility or designated area is not a religious organization or a secondary or elementary school; and

(h) The facility is located in a county with a charter form of government having a population of not less than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;

(ii) The premises of any facility licensed under this subdivision (38)(N) shall mean any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. The entire designated premises shall be covered under one (1) license issued under this subdivision (38)(N);

(iii) Notwithstanding chapter 5 of this title to the contrary, the premises of any facility licensed under this subdivision (38)(N) shall mean, for beer permitting purposes, any or all of the property that constitutes the facility, including all enclosed and outdoor areas of the property. The beer permittee shall designate the premises to be permit-
ted by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. The entire designated premises shall be covered under one (1) beer permit issued under chapter 5 of this title; and

(iv) An urban park center licensed under this subdivision (38)(N) shall have the privilege of granting a franchise for the provision of food or beverage, including alcoholic beverages, on its premises, and the holder of such franchise shall also be considered an urban park center under this subdivision (38)(N);

(O) “Urban park center” also means:

(i) A commercially operated facility having all of the following characteristics:

(a) The facility is located on land that is between one and one-half (1½) acres and that is adjacent to land owned by the electric power board of a county with a metropolitan form of government;

(b) The facility has at least two (2) permanent structures constructed before 1978 and at least twenty-five thousand square feet (25,000 sq. ft.) of climate controlled space;

(c) The facility formerly housed a custom car design business that had been serving the automotive community since 1968;

(d) The facility is located in a county with a metropolitan form of government having a population of not less than six hundred thousand (600,000), according to the 2010 federal census or any subsequent federal census;

(e) The facility is approximately five thousand ninety feet (5,090’) to the northeast of a federal interstate highway;

(f) The facility is approximately five thousand nine hundred sixty feet (5,960’) to the northwest of a navigable waterway; and

(g) The facility is approximately three hundred fifty feet (350’) to the southwest from the main building of a high school that was originally constructed before 1933;

(ii) The premises of any facility described under this subdivision (38)(O) means any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The licensee shall designate the premises to be licensed by the commission by filing a drawing of the premises, which may be amended by the licensee filing a new drawing. An urban park center, as described in subdivision (38)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including alcoholic beverages, on its premises. A franchisee is deemed to be an urban park center under this subdivision (38)(O) and shall apply for and hold a license under this subdivision (38)(O). The commission shall enforce the provisions of chapter 4 of this title against each franchisee as a licensee under this subdivision (38)(O) and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the commission may determine which franchisee to cite for an underage sale. If the commission is unable to determine which
franchisee committed the violation after conducting a reasonable investigation, the commission may issue a citation to one (1) or more franchisees that share the common space where the violation occurred;

(iii) Notwithstanding any provision of chapter 5 of this title to the contrary, the premises of any facility described under this subdivision (38)(O) means, for the purpose of obtaining a beer permit, any or all of the property that constitutes the facility, including all buildings and outdoor areas between and around those buildings. The beer permittee shall designate the premises to be licensed by the local beer board by filing a drawing of the premises, which may be amended by the beer permittee filing a new drawing. An urban park center, as described in subdivision (38)(O)(i), may grant a franchise to one (1) or more entities authorizing such an entity to provide food or beverages, including beer, on its premises. A franchisee is deemed to be an urban park center under this subdivision (38)(O) and shall apply for and hold a beer permit. The beer board shall enforce the provisions of chapter 5 of this title against each franchisee as a beer permittee and shall not cite, penalize, or take any other adverse action against a franchisee for any violation committed by another franchisee on the licensed premises. There is a rebuttable presumption of liability for a specific franchisee for any underage sale based on the specific type of glass or the brand on the cup provided to the minor. In the absence of a glass or cup identifying the franchisee, the beer board may determine which franchisee to cite for an underage sale. If the beer board is unable to determine which franchisee committed the violation after conducting a reasonable investigation, the beer board may issue a citation to one (1) or more franchisees that share the common space where the violation occurred; and

(iv) The licensee described in subdivision (38)(O)(i) and any franchisee licensed under this subdivision (38)(O) may store beer and alcoholic beverages in a central storage location in the facility. Each licensee shall store its inventory of beer and alcoholic beverages in a separately locked cage or other storage area;

(39) “Wine” means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-one percent (21%) by volume. No other product shall be called “wine” unless designated by appropriate prefixes descriptive of the fruit or other product from which the same was predominantly produced, or an artificial or imitation wine; and

(40)(A) “Zoological institution” means a facility which contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is owned, operated, or leased by a municipal or county government;

(ii) The zoo is at least fifty (50) years old; and

(iii) The zoo is located in a county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census.
(B) “Zoological institution” means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property leased by a county having a metropolitan form of government and has been opened to the public on that property at least since 1997;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census;

(C) “Zoological institution” means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1937;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred seven thousand eight hundred (307,800) nor more than three hundred seven thousand nine hundred (307,900), according to the 2000 federal census or any subsequent federal census; and

(D) “Zoological institution” means a facility that contains a zoological garden or collection of living animals and provides for their care and housing for public exhibition and further possesses the following characteristics:

(i) The zoo is operated on property owned by a city and has been opened to the public on that property at least since 1948;

(ii) The zoo has been accredited by and maintains the accreditation of the Association of Zoos and Aquariums (AZA); and

(iii) The zoo is located in a county having a population of not less than three hundred eighty two thousand (382,000) nor more than three hundred eighty two thousand one hundred (382,100), according to the 2000 federal census or any subsequent federal census.

57-4-107. Sales of alcoholic beverages for consumption on the premises in unincorporated areas of a county.

(a) Notwithstanding any other law to the contrary, sales of alcoholic beverages shall be permitted in unincorporated areas of a county that, by local option election in a county-wide referendum, approves the legal sale of alcoholic beverages for consumption on the premises, if that county has a charter form of government. This section shall apply to any such county that has already approved this referendum prior to June 5, 2009.

(b) In addition to the sales of alcoholic beverages authorized pursuant to subsection (a), notwithstanding any other law to the contrary, sales of alcoholic beverages shall be permitted in unincorporated areas of a county that approves
the legal sale of alcoholic beverages for consumption on the premises by local option election called and held, in accordance with § 57-3-106(g), in portions of the county lying outside municipalities meeting the requirements of § 57-3-106(g)(1).

(c) If a county-wide referendum for the legal sale of alcoholic beverages for consumption on the premises is approved in a county, the sales of alcoholic beverages are permitted in any municipality that participated in the referendum regardless of the minimum population requirement for a municipality in § 57-3-101.

57-4-108. Production, storage and sale of infused alcohol products.

(a) As used in this title, “infusion” or “infused product” means any product created from the combining or mixing of an alcoholic beverage with nonalcoholic products or material over a sustained period of time, and at the time of the combination or mixing, the combination or mixture is not intended for immediate consumption.

(b)(1) Notwithstanding any law to the contrary, an establishment licensed to sell alcoholic beverages for on-premises consumption pursuant to this part may produce, store and sell infusions pursuant to this section.

(2) The commission may promulgate rules and regulations regarding the production, storage, and sale of infusions by any licensee in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) [Deleted by 2017 amendment.]

(d) All alcoholic beverages used in the production of an infusion must be purchased from a licensed wholesaler.

(e) [Deleted by 2017 amendment.]

(f) A batch of infused product shall not:

(1) Contain any added stimulant, drug, or illegal substance; provided, that “added stimulant”:

(A) Means any stimulant used in the production of the infusion that is not naturally contained in any food product or beverage used in the production of the infusion; and

(B) Includes, but is not limited to, caffeine, guarana, ginseng, and taurine and any product or beverage which includes stimulants that are not naturally included in the product or beverage, including, but not limited to, energy drinks;

(2) Be removed or transported from the licensed premises; or

(3) Be infused in, stored in, or dispensed from an original package of liquor or wine, or a container bearing an alcoholic beverage name brand.

(4) [Deleted by 2017 amendment.]

(g) [Deleted by 2017 amendment.]

(h) A batch of infused product shall be labeled with a list of each ingredient contained in the infusion.

57-4-110. Interest of licensed manufacturer in licensed establishment.

[Effective until July 1, 2019.]

(a) Notwithstanding any law or rule to the contrary, a manufacturer licensed under § 57-3-202 may have a direct or indirect interest in any establishment licensed pursuant to this part; provided, that such interest is
held in an irrevocable trust by an independent trustee.

(b) This section is deleted on July 1, 2019, and shall no longer be effective on and after such date.

57-4-203. Prohibited practices — Hours of sale — Authority of commission — Penalties.

(a) Exterior Signs.
(1) No licensee shall place any sign of any description on the exterior of the licensee’s hotel, convention center, premier type tourist resort, restaurant, or club which is not in compliance with all duly adopted local ordinances relative to such exterior signs.

(2) A violation of subdivision (a)(1) is a Class C misdemeanor.

(b) Sales to Minors Prohibited.

(1)(A) Any licensee or other person who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under twenty-one (21) years of age commits a Class A misdemeanor and shall be punished in accordance with § 39-15-404, as well as any other applicable section.

(B) Any licensee engaging in business regulated hereunder or any employee thereof who sells, furnishes, disposes of, gives, or causes to be sold, furnished, disposed of, or given any beer or malt beverage as defined in § 57-6-102 to any person under twenty-one (21) years of age is guilty of a Class A misdemeanor.

(C) The commission may, upon finding that a licensee has violated subdivision (b)(1)(A) or (b)(1)(B) two (2) or more times during any two-year period, and for good cause shown, fine the licensee not more than ten thousand dollars ($10,000) and require retraining of all employees of the licensee under the supervision of the commission in lieu of suspending or revoking the license of the licensee.

(2) Any person under the age of twenty-one (21) years who:

(A) Purchases, attempts to purchase, receives, or has in such person’s possession in any public place, any alcoholic beverage, commits a Class A misdemeanor; or

(B) Knowingly makes a false statement or exhibits false identification to the effect that the licensee is twenty-one (21) years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same commits a Class A misdemeanor.

(i) If a person violating this subdivision (b)(2)(B) is less than eighteen (18) years of age, such person shall be punished by a fine of fifty dollars ($50.00) or not less than twenty (20) hours of community service work, which fine or penalty shall not be suspended or waived. The fine imposed by this subdivision (b)(2)(B)(i) shall apply regardless of whether the violator cooperates with law enforcement officers by telling them the place the alcohol was purchased or obtained or from whom it was purchased or obtained.

(ii) If the person violating this subdivision (b)(2)(B) is eighteen (18) years of age or older but less than twenty-one (21) years of age, such person shall be punished by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) or by imprisonment in the local jail or workhouse for not less than five (5) days nor more than
three (30) days. The penalties imposed by this subdivision (b)(2)(B)(ii)
apply regardless of whether the violator cooperates with law enforce-
ment officers by telling them the place the alcohol was purchased or
obtained or from whom it was purchased or obtained.
(C)(i) In addition to any criminal penalty established by this section, a
court in which a person younger than twenty-one (21) years of age is
convicted of the purchase, attempt to purchase or possession of alcoholic
beverages, or the making of a false statement or exhibition of false
identification for the purpose of purchasing or obtaining alcoholic
beverages in violation of this section, shall prepare and send to the
department of safety, driver control division, within five (5) working
days of the conviction an order of denial of driving privileges for the
offender.
(ii) The court and the department of safety shall follow the same
procedures and utilize the same sanctions and costs for an offender
younger than twenty-one (21) years of age but eighteen (18) years of age
or older as provided in title 55, chapter 10, part 7, for offenders younger
than eighteen (18) years of age but thirteen (13) years of age or older.
(3) This chapter does not prohibit any person eighteen (18) years of age or
older from selling, transporting, possessing or dispensing alcoholic bever-
ages in the course of such person’s employment.
(e) Other Prohibited Sales.
(1) It is unlawful for any licensee or other person to sell or furnish any
alcoholic beverage to any person who is known to be insane or mentally
defective, or to any person who is visibly intoxicated, or to any person who is
known to habitually drink alcoholic beverages to excess, or to any person
who is known to be an habitual user of narcotics or other habit-forming
drugs.
(2) A violation of subdivision (c)(1) is a Class A misdemeanor.
(d) Hours of Sale.
(1) Except as provided in subdivision (d)(5), hotels, clubs, zoological
institutions, public aquariums, museums, motels, convention centers, res-
aurants, community theaters, theater, historic interpretive centers, sports
authority facilities, and urban park centers, licensed as provided herein to
sell alcoholic beverages, and/or malt beverages, and/or wine may not sell, or
give away, alcoholic beverages and/or malt beverages and/or wine between
the hours of three o’clock a.m. (3:00 a.m.) and eight o’clock a.m. (8:00 a.m.)
on weekdays, or between the hours of three o’clock a.m. (3:00 a.m.) and
twelve o’clock (12:00) noon on Sundays.
(2) Except as provided in subdivision (d)(5), hotels, motels and restau-
rants, licensed under § 57-4-102(26)(B) may not sell or give away alcoholic
beverages, and/or malt beverages and/or wine between the hours of one
o’clock a.m. (1:00 a.m.) and eight o’clock a.m. (8:00 a.m.) on weekdays or
between the hours of one o’clock a.m. (1:00 a.m.) and twelve o’clock (12:00)
noon on Sundays.
(3) Except as provided in subdivision (d)(5), establishments in a terminal
building of a commercial air carrier airport and commercial airline travel
clubs licensed as provided herein to sell alcoholic beverages, and/or malt
beverages, and/or wine, may not sell, or give away, alcoholic beverages
and/or malt beverages and/or wine between the hours of three o’clock a.m.
(3:00 a.m.) and eight o’clock a.m. (8:00 a.m.) on weekdays or between the
hours of three o’clock a.m. (3:00 a.m.) and twelve o’clock noon (12:00) on
Sundays.

(4) Except as provided in subdivision (d)(5), licensees under § 57-4-102(27) may not sell or give away alcoholic beverages and/or malt beverages and/or wine between the hours of five o'clock a.m. (5:00 a.m.) and eight o'clock a.m. (8:00 a.m.) on weekdays or between the hours of five o'clock a.m. (5:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

(5) The commission is authorized to extend the hours of sale in the jurisdictions which have approved the sale of liquor by the drink by referendum; provided, however, that such extension of hours as well as § 57-5-301(b)(5) shall apply to Sunday sales of beer within the area of the county outside a municipality which approves liquor by the drink by referendum unless the county legislative body by a two-thirds (\(\frac{2}{3}\)) vote sets the hours for Sunday sales of beer in accordance with § 57-5-301(b)(1) to apply within such area. Upon petition by any licensee or group of licensees under this chapter, the commission may, after conducting a rule-making hearing pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, adopt rules expanding the hours during which it is legal to sell or give away alcoholic beverages, malt beverages and wine, pursuant to this chapter. The commission is hereby directed to consider such factors as the hours of sales in contiguous states and the need to compete with jurisdictions elsewhere in the country for convention and tourism business. The governing body of any municipality or metropolitan government which has approved liquor by the drink by referendum may, at any time, opt out of any extension of hours adopted under this section by passage of a resolution. Further, any municipality or metropolitan government that has opted out may, at a later date, opt in by passage of a resolution.

(6) Except as provided in subdivision (d)(5), licensees under § 57-4-102(29)(L) and (M) shall not sell or give away alcoholic beverages, malt beverages, or wine between the hours of three o'clock a.m. (3:00 a.m.) and four o'clock a.m. (4:00 a.m.).

(e) Restrictions on Sealed or Unsealed Packages, or Gifts.

(1) No licensee hereunder shall sell any wine or other alcoholic beverage in any sealed or unsealed package to any patrons or customers for consumption off its premises. Notwithstanding the foregoing, a restaurant licensed under this chapter may permit a customer who purchases an unsealed package of wine in conjunction with a food purchase and consumes a portion of the wine on the premises to remove the partially filled package from the premises. In addition, a licensee holding a license issued pursuant to §§ 57-4-102(14) and (33) may sell and distribute alcoholic beverages and wine in unsealed containers to the occupant of a suite located within a sports authority facility or a convention center; provided, that such occupant is at least twenty-one (21) years of age, is authorized by the lessee of the suite to receive such alcoholic beverages and wine, and the alcoholic beverage or wine is not removed from the sports authority facility or convention center.

(2) No licensee shall give away any such sealed package or any drink of wine or alcoholic beverage to any patron or customer; provided, that any hotel licensed under this chapter may include as part of the accommodations to a registered guest the provision of up to four (4) seven hundred fifty milliliter (750 ml.) or smaller complimentary sealed packages of wine or alcoholic beverages which must have all appropriate taxes paid upon them.

(3) The tax required by chapter 4, part 3 of this title shall be paid upon the normal sales price of any such packages of wines provided under this
subsection (e).

(4) A restaurant or limited service restaurant may sell beer for consumption off premises upon meeting the requirements of § 57-5-101(c)(1)(B).

(f) **Method of Sale.** Sales of wine and alcoholic beverages by licensees hereunder shall be conducted in the same manner as the sale of food is regularly conducted by such hotels, convention centers, premier type tourist resorts, restaurants, or clubs, except that no curb service of such beverages is lawful.

(g) **Ownership of Alcoholic Beverages Sold.**

(1) It is a Class C misdemeanor for any licensee hereunder to sell or serve on the licensee’s premises any wine or other alcoholic beverage unless such beverage is owned outright by the licensee.

(2) It is unlawful for any person, firm or corporation to sell wine or other alcoholic beverage as authorized herein without complying with the applicable provisions of this chapter.

(3) This subsection (g) shall not apply to events held by special occasion licensees who receive donated alcoholic beverages or beer.

(h) **Restrictions on Employment.** No entity holding a license issued pursuant to § 57-4-101 shall employ any person in the serving of beer, wine or other alcoholic beverages who does not possess a server permit from the commission. It is made the duty of the licensee to see that each person dispensing or serving alcoholic beverages, wine or beer in the licensee’s establishment possesses such a permit, which permit must be on the person of such employee or on the premises of the licensed establishment and subject to inspection by the commission or its duly authorized agent when the employee is engaged in the performance of that employee’s duties for the licensee.

(i) **Premises Must Be Licensed — Exception for Conventions, Social Gatherings and Catered Events.**

(1)(A) Except with respect to a caterer licensed under this chapter, it is unlawful for any person, firm, corporation, partnership, or association to allow the dispensing of alcoholic beverages except sacramental wines and beer, in any establishment unless such establishment is licensed under this title.

(B) A violation of subdivision (i)(1)(A) is a Class B misdemeanor.

(2) Bona fide conventions or meetings, however, may bring their own alcoholic beverages onto the licensed premises if the same beverages are served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. This section has no application to social gatherings in a private home or a private place which is not of a commercial nature or where goods or services may be purchased or sold or any charge or rent or other thing of value is exchanged for the use thereof, excepting it be for sleeping quarters. Nothing herein shall preclude the serving of alcoholic beverages to guests without cost in rooms or suites or banquet rooms of a hotel or club licensed pursuant to this chapter.

(3) A restaurant, hotel, or caterer holding a valid catering license may sell or distribute wine, beer, and other alcoholic beverages at social or commercial events, catered by the restaurant, hotel, or caterer where the restaurant, hotel, or caterer is providing food service at such event; provided, that the restaurant, hotel, or caterer shall notify the commission as to the time, location and duration of the catered event before the commencement of the event. Nothing in this subdivision (i)(3) or chapter shall be interpreted to require a person who holds a valid caterer license under this chapter to also
be licensed as a restaurant or hotel.

(j) **Penalties Invoked.**

   (1) Any person, firm or corporation who violates any provision of parts 1 and 2 of this chapter is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000); and, in the discretion of the court, imprisoned not less than thirty (30) days, nor more than six (6) months, and each violation constitutes a separate offense.

   (2) Any person, firm or corporation who shall sell wine or other alcoholic beverages for consumption on its premises except as authorized by parts 1 and 2 of this chapter is guilty of a misdemeanor and punishable as provided in this section.

   (3) Upon conviction of a second offense under this chapter, the permit of any licensee so convicted shall be automatically and permanently revoked.

   (4) Upon the second conviction of any person, firm, or corporation for violation of subdivision (b)(1), such person, firm, or corporation is guilty of a Class E felony. In addition, upon the second such conviction, the permit of such licensee shall be automatically and permanently revoked regardless of any other punishment actually imposed.

(k) **Purchases by Special Occasion Licensees.**

   (1) No charitable, nonprofit or political organization possessing a special occasion license shall purchase for sale or distribution under such license any alcoholic beverages from any source other than a licensee under § 57-3-204. This subsection (k) shall not apply to homemade wine made in the Swiss tradition by a member or members of a special occasion permit holder issued a license pursuant to § 57-4-102(32)(D). The member may supply the wine notwithstanding the limitations of § 57-3-207(e).

   (2) A charitable, nonprofit, or political organization, or any representative thereof, may accept donations of alcoholic beverages and beer from any licensee holding a license issued pursuant to § 57-3-202, § 57-3-203, § 57-3-204, § 57-3-207, § 57-3-605 or § 57-4-101; provided, that the charitable, nonprofit, or political organization serves or sells such alcoholic beverages and beer at an event conducted by the charitable, nonprofit, or political organization as a special occasion licensee.

(l) **Commercial Airline Travel Clubs.** A commercial airline travel club licensed under this chapter may provide complimentary drinks of wine and alcoholic beverages to its patrons, customers, and guests. Such commercial airline travel club must have a separate area, other than the gate and ticket areas, designated as a club area for use by its members. The tax required by part 3 of this chapter shall be paid upon the normal sales price of all such complimentary drinks of wine and alcoholic beverages provided under this subsection (l).

(m) **Discounts.** Nothing in this chapter shall prohibit a licensee from offering a discount in such manner as the licensee deems appropriate as long as the discount being offered is not below the cost paid by the licensee to purchase the alcoholic beverages from the retailer.

(n) **Restrictions on Certain Limited Service Restaurant Licensees.** Any establishment holding a license pursuant to § 57-4-301(b)(1)(W)(iv) shall not permit alcoholic beverages to be sold on sidewalks, streets, or alleys.

(o) **Extension of Credit by Wholesalers to Retailers.**
(1) No wholesaler licensed under § 57-3-203 shall be permitted to extend credit of any retailer licensed under § 57-4-101 unless pursuant to this subsection (o). All amounts due to any wholesaler from all sales to such retailers shall be due upon delivery of the product.

(2) Notwithstanding the limitations of subdivision (o)(1), wholesalers licensed under § 57-3-203 may extend credit to a retailer licensed under § 57-4-101 for a period not to exceed ten (10) days from the date of the delivery of the product; provided, the payment is effected by electronic funds transfer or escrow prepayment.

(3) It shall create a rebuttable presumption that a retailer licensed under § 57-4-101 is not financially responsible under § 57-3-104(c)(10) if the retailer fails to satisfy its obligations to any wholesaler in accordance with each wholesaler’s credit terms twice within a twelve-month period. Upon being advised by any wholesaler licensed under § 57-3-203 twice within a twelve-month period that a retailer has failed to comply with the applicable credit terms, the commission shall set a hearing as soon as practicable at its next available meeting to determine whether the retailer can rebut the presumption created by this subdivision (o)(3). Upon a finding that the retailer is not financially responsible under § 57-3-104(c)(10), the commission may issue a fine, suspend or revoke the license, or make any other order it deems appropriate.

(4) Notwithstanding any law to the contrary, the commission is authorized to issue a citation in an amount not to exceed five hundred dollars ($500) per violation against any retailer licensed under § 57-4-101 if, upon investigation, the commission finds that the retailer has failed to satisfy its obligations to any wholesaler in accordance with each wholesaler’s credit terms twice within a twelve-month period.

57-4-301. Privilege taxes — Tax on retail sales — Carrier license fees — Mixing bar tax.

(a) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this state alcoholic beverages for consumption on the premises.

(b)(1) Each applicant for an on-premises consumption license shall pay to the commission a one-time, nonrefundable fee in the amount of three hundred dollars ($300) when the application is submitted for review. Further, once a license is approved, for the exercise of such privilege, the following taxes are levied to be earmarked for and allocated to the commission for the purpose of the administration and enforcement of the duties, powers, and functions of the commission, and are to be paid annually, as follows:

<table>
<thead>
<tr>
<th></th>
<th>July 2003</th>
<th>July 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Private club</td>
<td>$300</td>
<td>$500</td>
</tr>
<tr>
<td>(B) Convention center</td>
<td>$500</td>
<td>$1000</td>
</tr>
<tr>
<td>(C) Premier type tourist resort</td>
<td>$1500</td>
<td>$2000</td>
</tr>
</tbody>
</table>
(D) Historic performing arts center $ 300 $ 150
(E) Urban park center $ 500 $ 150
(F) Commercial passenger boat company $ 750 $1250
(G) Historic mansion house site/Historic inn $ 300 $ 150
(H) Historic interpretive center $ 300 $ 150
(I) Community theater $ 300 $ 150
(J) Zoological institution $ 300 $ 150
(K) Museum $ 300 $ 150
(L) Establishment in a terminal building of a commercial air carrier airport $1000 $1500
(M) Commercial airline travel club $ 500 $1000
(N) Public aquarium $ 300 $ 150
(O) Motor speedway $1000 $2000
(P) Sports facility $1000 $2000
(Q) Theater $ 300 $ 150

Further, for the exercise of such privilege, the following taxes are hereby levied to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission, and are to be paid in accordance with the following schedule:

(R) Restaurant, according to seating capacity, on licensed premises:
   (i) 40 — 74 seats $ 650
   (ii) 75 — 125 seats $ 750
(iii) 126 — 175 seats $ 925
(iv) 176 — 225 seats $ 975
(v) 226 — 275 seats $1100
(vi) 276 seats and more $1200

Wine-only restaurant, according to seating capacity on licensed premises:

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<tr>
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<tbody>
<tr>
<td>(vii) 40 — 125 seats</td>
<td>$ 120</td>
<td>$ 170</td>
<td>$ 220</td>
<td>$ 270</td>
</tr>
<tr>
<td>(viii) 126 — 175 seats</td>
<td>$ 150</td>
<td>$ 200</td>
<td>$ 250</td>
<td>$ 300</td>
</tr>
<tr>
<td>(ix) 176 — 225 seats</td>
<td>$ 160</td>
<td>$ 210</td>
<td>$ 260</td>
<td>$ 310</td>
</tr>
<tr>
<td>(x) 226 — 275 seats</td>
<td>$ 180</td>
<td>$ 230</td>
<td>$ 280</td>
<td>$ 330</td>
</tr>
<tr>
<td>(xi) 276 seats and more</td>
<td>$ 200</td>
<td>$ 250</td>
<td>$ 300</td>
<td>$ 350</td>
</tr>
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</table>

(S) Caterers:

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<tr>
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<tbody>
<tr>
<td></td>
<td>$ 500</td>
<td>$ 550</td>
<td>$ 575</td>
<td>$ 625</td>
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</table>

(T) Hotels, according to room capacity, on licensed premises:

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<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>(i) 0 — 99 rooms</td>
<td>$1000</td>
<td>$1000</td>
<td>$1000</td>
<td>$1000</td>
</tr>
<tr>
<td>(ii) 100 — 399 rooms</td>
<td>$1000</td>
<td>$1000</td>
<td>$1200</td>
<td>$1250</td>
</tr>
<tr>
<td>(iii) 400 rooms and over</td>
<td>$1000</td>
<td>$1200</td>
<td>$1400</td>
<td>$1500</td>
</tr>
</tbody>
</table>

(U) Retirement center $150
(V) Civic arts center $150

(W) Limited service restaurant, based on the gross sales of prepared food:

(i) At least 30% of gross sales $2,000
(ii) At least 20% but not more than 30% of gross sales $3,000
(iii) At least 15% but not more than 20% of gross sales $4,000
(iv) 0% but not more than 15% of gross sales $5,000

(2) Each county or municipality within which such privilege is exercised is authorized to levy and collect the privilege tax separately. However, such privilege tax collected by the county or municipality will remain at the 2003 level and any monetary increase of the privilege tax in fiscal years beginning July 1, 2004, and thereafter, as provided in this subsection (b) will be solely used for the purpose of the administration and enforcement of the duties, powers, and functions of the Tennessee alcoholic beverage commission; provided, however, that in any county where metropolitan government prevails, the urban service district shall constitute the municipality and the general service district shall constitute the county insofar as this chapter is concerned.

(3) Notwithstanding subdivision (b)(1)(E) to the contrary, “urban park centers” under 57-4-102(38)(G)-(K) shall pay an annual privilege tax of four thousand dollars ($4,000) to be earmarked for and allocated to the commission for the purpose of administration and enforcement of the duties, powers, and functions of the commission.

(c)(1) In addition to the privilege taxes levied in subdivision (b)(1), there is further levied a tax equal to the rate of fifteen percent (15%) of the sales price of all alcoholic beverages sold for consumption on the premises, the tax to be computed on the gross sales of alcoholic beverages for consumption on the premises for the purpose of remitting the tax due the state, and to include each and every retail thereof.

(2) A person required by subdivision (c)(1) to collect and pay the tax on the sale of alcoholic beverages on the premises may include the tax in the menu price of the alcoholic beverage or may include the tax on the final bill to the customer. A person that does not include the tax in the menu price of the alcoholic beverage product must advise customers on its menu that a fifteen percent (15%) tax on the sale of alcoholic beverages will be added to the final bill.

(d) Commercial airlines, paddlewheel steamboat companies and passenger trains shall, in lieu of taxes levied under subsections (b) and (c), pay annually to the state, for state purposes, a license fee of twelve hundred fifty dollars ($1250). Commercial airlines, paddlewheel steamboat companies and passenger trains which have paid the annual license fee under this section may bring into and store in this state alcoholic beverages on which taxes levied under § 57-3-302, have not been paid, but must comply with subdivisions (d)(1) and (2):

(1) Commercial airlines, paddlewheel steamboat companies and passenger trains that bring into, or possess in this state alcoholic beverages on which taxes levied by this state have not been paid are liable for such taxes on the alcoholic beverages;

(2) The liability of commercial airlines, paddlewheel steamboat companies and passenger trains for taxes levied under § 57-3-302, is determined by multiplying the:

(A) Quantity of each type of alcoholic beverage purchased within the operating system of each commercial airline, paddlewheel steamboat company or passenger train by the ratio of its revenue passenger miles in
Tennessee to the total revenue passenger miles within its system; and

(B) Respective results obtained under subdivision (d)(2)(A), by the applicable tax rate for each type under § 57-3-302, and the rules and regulations promulgated pursuant thereto;

(3) Monthly reports of the liability, determined under subdivision (d)(2), shall be submitted to the department of revenue on forms designated by the commissioner, on or before the last day of each month following the month during which any tax liability arises under this subsection (d). A commercial airline, paddlewheel steamboat company or passenger train that fails to file the report required, or to pay the tax payable under this section in a timely manner as defined by rules and regulations promulgated by the department, is liable for interest and penalties as provided by law; and

(4) This subsection (d) does not apply to commercial airline travel clubs.

(e) No tax authorized or imposed by this section shall be levied or assessed from any charitable, nonprofit, or political organization selling alcoholic beverages at retail pursuant to a special occasion license.

(f) A restaurant, hotel, or caterer licensed under this chapter may obtain a catering license upon the payment of an additional privilege tax in accordance with subdivision (b)(1)(S), for state purposes, to be paid annually.

(g) A special historic district authorized to serve wine under § 57-4-101 shall pay an annual privilege tax of one hundred dollars ($100) for the privilege of serving wine within such district.

57-4-306. Distribution of collections.

(a) All gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(1) Fifty percent (50%) to the general fund to be earmarked for education purposes; and

(2) The other fifty percent (50%) to be distributed to local political subdivisions as follows:

(A) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and

(B) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(b)(1) From July 1, 2016, until June 30, 2017, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be distributed as follows:

(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then the city recorder shall retain the collections for the city school system;

(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

(a) In the amount the percentage that the 2015-2016 average daily attendance (ADA) of the students in the city school system is to the
2015-2016 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

(b) In the amount the percentage that the 2015-2016 ADA of the students in the city school system is to the 2015-2016 ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city shall be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(2) From July 1, 2017, until June 30, 2018, the proceeds received by a local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(A) One-half (½) of the proceeds shall be distributed as follows:

(i) If the county school system is the only LEA in the county, then to the county trustee for the county school system from the collection of taxes in the county or any city exercising the privilege authorized under § 57-4-301(c);

(ii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a kindergarten through grade twelve (K-12) school system, then the city recorder shall retain the collections for the city school system;
(iii) If a city exercises the privilege authorized under § 57-4-301(c) and operates a city school system that is not a kindergarten through grade twelve (K-12) school system, then to the city recorder:

(a) In the amount the percentage that the 2016-2017 average daily attendance (ADA) of the students in the city school system is to the 2016-2017 ADA of public school students residing in the city who attend either the city school system or the county school system with the remaining amount distributed to the county trustee for the county school system, if the city lies entirely in a single county; or

(b) In the amount the percentage that the 2016-2017 ADA of the students in the city school system is to the 2016-2017 ADA of public school students residing in the city who attend either the city school system or a county school system with the remaining amount divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems, if the city lies within two (2) or more counties;

(iv) Notwithstanding § 49-3-315, if a city exercises the privilege authorized under § 57-4-301(c), but does not operate a city school system, then to the county trustee for the county school system;

(v) If a special school district lies, in whole or in part, within a city that exercises the privilege authorized under § 57-4-301(c), then to the appropriate official acting for the special school district in the amount the percentage the ADA of public school students residing in the city and attending the special school district is to the total ADA of city public school students who attend either the special school district or the county school system with any remaining amount distributed to the county trustee for the county school system;

(vi) Notwithstanding § 49-3-315, if a county exercises the privilege authorized under § 57-4-301(c) and one (1) or more city school systems operate within the county, then to the county trustee for the county school system any tax revenues collected outside the boundaries of cities exercising the privilege authorized under § 57-4-301(c) that have city school systems; or

(vii) If a city that lies in two (2) or more counties exercises the privilege authorized under § 57-4-301(c) but does not operate a city school system, then tax revenues collected in the city shall be divided between the counties based on where the tax was collected and distributed to the county trustees for the county school systems; and

(B) The other one-half (½) of the proceeds shall be distributed as follows:

(i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(3)(A) As used in subdivision (b)(1), “average daily attendance” or “ADA” means:

(i) If the school system was in operation during the 2015-2016 school year, the aggregate days’ attendance of the school system during the 2015-2016 school year divided by the number of days school was in session during the 2015-2016 school year; or
(i) If the school system was not in operation during the 2015-2016 school year, then the estimated expected attendance of the school system for the 2016-2017 school year as reported to the department of education.

(B) As used in subdivision (b)(2), “average daily attendance” or “ADA” means:

(i) If the school system was in operation during the 2016-2017 school year, the aggregate days’ attendance of the school system during the 2016-2017 school year divided by the number of days school was in session during the 2016-2017 school year; or

(ii) If the school system was not in operation during the 2016-2017 school year, then the estimated expected attendance of the school system for the 2017-2018 school year as reported to the department of education.

(c) After July 1, 2018, the proceeds received in each local political subdivision pursuant to subdivision (a)(2) shall be distributed by the local political subdivision in the following manner:

(1) One half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which do not operate their own school systems separate from the county are required to remit one half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and

(2) The other one half (½) of the proceeds shall be distributed as follows:

(A) Collections of gross receipts collected in unincorporated areas, to the county general fund; and

(B) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.

(d) Notwithstanding subdivision (a)(2), the fifty percent (50%) of the gross receipt taxes allocated to local political subdivisions by subdivision (a)(2) and collected in a municipality which is a premier tourist resort shall be distributed to and expended by such municipality for schools in such municipality.

(e) By August 1, 2014, every city or county that exercises the privilege authorized under § 57-4-301(c) shall provide written notice to each school system operating within its jurisdiction. This notice shall contain a statement that the local political subdivision exercises the privilege authorized under § 57-4-301(c), a statement that students within the jurisdiction attend a school or schools operated by the school system, a statement that the school system is authorized to receive a portion of the revenues collected, and a reference to this part. A city or county that, subsequent to July 1, 2014, elects to exercise the privilege authorized under § 57-4-301(c), shall comply with the notice provisions of this subsection (e) within thirty (30) days of the effective date of the referendum.

(f) If the local political subdivision fails to remit the proceeds to the appropriate school fund, system, or systems as required under subsections (b) or (c) as applicable within sixty (60) days of receipt from the commissioner, then the aggrieved local school board shall notify the comptroller of the treasury who shall deliver by certified mail a written notice of such failure to the local political subdivision within five (5) business days of notice of the failure.

(g) In the event the local political subdivision fails to remit the proceeds
within thirty (30) days of the receipt of such notice, the comptroller of the treasury shall direct the commissioner to withhold future distributions of proceeds to the local political subdivision authorized under subsections (b) or (c) as applicable until a final determination is made pursuant to subsection (h).

(h) Upon the commissioner withholding distributions of proceeds as authorized under subsection (g), an aggrieved local school board shall have the authority to pursue equitable relief against the local political subdivision in the chancery court; provided, however, that in the event that the state is a party or becomes a party to the suit, then such suit shall be filed or transferred to the chancery court of Davidson County. Upon receipt of a copy of the final judgment of the court, the commissioner shall distribute all withheld proceeds to the local political subdivision, which shall remit such proceeds to the aggrieved party pursuant to the judgment. If the amount of the judgment is not satisfied by the withheld proceeds, then the local political subdivision shall be solely responsible for remitting future proceeds to the aggrieved party pursuant to the judgment.

(i)(1) Subsections (a)-(h) shall not apply in counties having a population, according to the 2010 federal census or any subsequent federal census of:

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<tr>
<td>336,400</td>
<td>336,500</td>
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<td>98,900</td>
<td>99,000</td>
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In such counties, all gross receipt taxes collected under § 57-4-301(c) shall be distributed by the commissioner of revenue as follows:

(A) Fifty percent (50%) to the general fund to be earmarked for education purposes; and
(B) The other fifty percent (50%) to be distributed to local political subdivisions as follows:
   (i) Collections for privileges exercised in an incorporated municipality shall be distributed by the commissioner to the city recorder; and
   (ii) Collections for privileges exercised in an unincorporated area of the county shall be distributed by the commissioner to the county trustee.

(2) The proceeds received in each local political subdivision pursuant to subdivision (i)(1)(B) shall be distributed by the local political subdivision in the following manner:

(A) One half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for schools is expended and distributed; any proceeds expended and distributed to municipalities which do not operate their own school systems separate from the county are required to remit one half (½) of their proceeds of the gross receipts liquor-by-the-drink tax to the county school fund; and
(B) The other one half (½) of the proceeds shall be distributed as follows:
   (i) Collections of gross receipts collected in unincorporated areas, to the county general fund; and
   (ii) Collections of gross receipts in incorporated cities and towns, to the city or town wherein such tax is collected.
57-5-114. Separate license for distribution of high alcohol content beer not required.

Any wholesale distributor of beer that has a valid wholesale license pursuant to this chapter is not required to obtain a separate license for the distribution of high alcohol content beer from the commission.

57-9-201. Beverages owned, possessed or sold by unlicensed persons deemed contraband — Untaxed alcoholic beverages — Seizure and sale — Vehicles subject to confiscation.

(a) All alcoholic beverages of more than five percent (5%) alcohol in excess of five gallons (5 gals.) that are owned or possessed by any person in any county of this state, whether or not such county has authorized the sale or distribution of alcohol within its jurisdiction, without the same having been purchased or obtained from an entity holding a license issued under § 57-3-204, § 57-3-203 or § 57-3-207, or manufactured at an entity holding a license issued under § 57-3-218, are declared to be contraband goods, and the same may be seized by the representative, agent or employee of the commission, or sheriff or deputy sheriffs of any such county, and such goods may be delivered to the alcoholic beverage commission for sale by the commissioner of general services in accordance with §§ 12-2-201 — 12-2-204. The reference to “sheriff or deputy sheriffs” in the preceding sentence also includes “constables” in those counties of this state enumerated in § 57-9-101. All alcoholic beverages, which are sold or stored in wet counties for the purpose of sale by a person who does not hold a state liquor license shall be contraband within the meaning of this part, and subject to seizure as provided herein. No bids shall be received on such contraband beverages except from persons duly licensed by the state to handle alcoholic beverages of more than five percent (5%).

(b) Any vehicle, aircraft or boat not a common carrier which may be used for transportation or storage, either in wet or dry counties, for the purpose of distribution, gift or sale of untaxed alcoholic beverages shall likewise be subject to confiscation and sale in the manner herein provided. Should any untaxed alcoholic beverages be found in any vehicle, aircraft or boat, same shall be prima facie evidence that it was there for gift, sale or distribution.

(c) Vehicles and any other articles of personal property which may be found at a still, still site, or place of storage, which still, still site or place of storage is being used by persons known or unknown who have failed to procure a state liquor license, or have failed to pay the taxes imposed by § 57-3-302 are declared to be contraband goods and shall likewise be subject to confiscation and sale in the manner herein provided; however, before any vehicle declared to be contraband, under this part, is sold as provided herein, a copy of notice of seizure shall be sent by registered mail to the owner and lienholder as of record in the motor vehicle division of the department of revenue. Such notice shall state a general description of the seized vehicle, the reasons for the seizure, the procedure by which recovery of the vehicle may be sought, including the time period in which a claim for recovery must be presented, and the consequences of failing to file within the time period. A copy of the notice shall be filed in the office of the commission and shall be open to the public for inspection.

(d) This section shall be applicable to dry counties in like manner as to wet counties.

(e) In the case of any vehicle, aircraft, or boat not a common carrier seized
by any law enforcement officer of any incorporated municipality or of any county and turned over to the commission for confiscation, fifty percent (50%) of the amount received from the sale thereof shall be paid to the municipality or to the county served by such law enforcement officer, as the case may be.  

(f) The presence of alcoholic beverages at a still, still site or place of storage in excess of one gallon (1 gal.) without a bill of lading or receipt from a licensed retailer, wholesaler, winery or manufacturer shall create a rebuttable presumption that the taxes imposed by § 57-3-302 have not been paid.

58-1-230. Awards in case of death or injury.

(a) Death.

(1) The division of claims and risk management is authorized after proper investigation to pay a death benefit to or for the survivor prescribed in subdivision (a)(3), upon receiving certification by the adjutant general of the death of any member of the national guard who:

(A) Dies while performing full time training, or duty under §§ 58-1-106, 58-1-108 and 58-1-205; or

(B) Dies within one hundred twenty (120) days thereafter if death resulted from injury sustained or disease incurred or aggravated while performing such training or duty or returning from the same.

(2) The death benefit so paid shall be the same as those as are now provided under the Workers’ Compensation Law of this state, compiled in title 50, chapter 6, or as that law shall be hereinafter amended; provided, however, that the benefit paid shall be based on and determined by the percentage of the average weekly pay the guard member would have received while on active federal duty; and provided further, that no benefit so paid shall be less than one hundred thousand dollars ($100,000), and at the option of the beneficiaries, the amount shall be paid in a lump sum and without being commuted.

(3)(A) The benefit shall be paid to or for the benefit of the living survivor highest on the following list:

(i) Surviving spouse;

(ii) Children including children by adoption and illegitimate children who are members of the decedent’s household and/or who have been acknowledged;

(iii) Parents;

(iv) Brothers and sisters in equal shares.

(B) No further beneficiaries shall be recognized.

(4) The death benefit herein provided shall be payable without regard to legal liability and the state shall not be entitled to subrogation in any instance.

(b) Injuries. When any member of the national guard is injured while performing duty as set forth in subdivision (b)(1), the division of claims and risk management shall compensate guard member in the same manner and to the same extent as now provided under the Workers’ Compensation Law of this state, compiled in title 50, chapter 6; provided, however, that:

(1) The compensation so paid shall be based upon and determined by the percentage of the average weekly pay the guard member would have received while on active duty;

(2) The compensation so received shall in no event be less than fifty
dollars ($50.00) per week; and

(3) The compensation shall be payable in a lump sum without commutation.

(c) Coordination of Benefits. For the purpose of coordinating benefits payable from the state and from the federal government as the result of the death or injury of a member of the Tennessee national guard, any workers’ compensation benefits provided by the state shall be reduced by the amount of any medical care, hospitalization, or incapacitation pay benefits paid by the federal government to such guard member or statutory beneficiary as the result of injury or death.

(d) Investigation.

(1) No benefits for death or injury shall be paid unless and until a board of Tennessee national guard officers appointed by the adjutant general consisting of not less than three (3) officers, at least one (1) of which shall be a medical officer, shall submit, after a full evidentiary hearing according to military regulations, its findings and recommendations for approval, certification, and transmittal by the adjutant general to the division of claims and risk management, that the deceased or injured guard member was in the course of employment at the time of his death or injury or when the disease or injury which produced death was incurred.

(2) Upon receipt of the board’s report and recommendations of the adjutant general, the division of claims and risk management shall determine whether the injury or death of such member of the national guard arose out of and in the course of employment under the Workers’ Compensation Law of this state and, if appropriate, act upon such claim.

(e) Appeal. Any guard member, or any statutory beneficiary as hereinabove enumerated, whose claim is denied by the division of claims and risk management shall have the right to file the guard member’s claim with the claims commission within ninety (90) days of the date of such denial. Any decision of the claims commission pertaining to the death or injury of a member of the national guard shall be subject to judicial review pursuant to the procedure for workers’ compensation cases under § 50-6-225.

58-1-236. Burial flag for family of deceased member of national guard.

(a) The adjutant general shall present to the family of each eligible, deceased member of the national guard a Tennessee state flag, appropriate for use as a burial flag, upon application of a member of the family of the deceased guard member.

(b) The adjutant general shall prepare an application form to be used to determine the eligibility of the deceased for the burial flag and shall furnish the form to the senior full-time employee in each armory.

(c) The family of any individual who serves at least one (1) year in the national guard and who at the time of death is an active, honorably discharged, or retired member of the national guard is eligible to receive a burial flag.

(d) The adjutant general may, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules to implement this section.

(e) The adjutant general shall obtain flags from the federal government when available. If flags from the federal government are not available, the adjutant general shall purchase the flags from funds appropriated to the military department.
58-2-126. First responders from local emergency management agencies — Death benefit.

(a) As used in this section:
(1) “First responders from local emergency management agencies” means emergency management agency personnel, including but not limited to, emergency managers who, as first responders:
   (A) Go directly to the scene of an emergency; or
   (B) Provide direct logistical support during the emergency and may go to and from a disaster or emergency area; and
(2) “Local emergency management agency” means an organization created in accordance with this chapter to discharge the emergency management responsibilities and functions of a political subdivision.

(b) All local emergency management agency personnel are considered first responders from local emergency management agencies with all the rights, benefits, privileges, and protections available to them pursuant to state and local laws.

(c) The estate of any first responder from a local emergency management agency who is killed in the line of duty is entitled to receive the sum of twenty-five thousand dollars ($25,000), with payment to be made from the general fund after receipt by the department of finance and administration of a certified death certificate and an affidavit from the decedent’s employer that the decedent was killed in the line of duty.

58-4-301. Display of P.O.W.-M.I.A. flag over state capitol.

(a)(1) On days that neither house of the general assembly is in session during the month of September, the P.O.W.-M.I.A. flag must be displayed over the state capitol in accordance with § 4-1-406(a), on any day the United States flag is displayed, in order to increase public awareness of the P.O.W.-M.I.A. issue and to gain public support for the efforts of the United States government to resolve this matter.

   (2) Beginning June 30, 2017, the P.O.W.-M.I.A. flag must be displayed daily below the United States flag in War Memorial Plaza and in Vietnam Veterans Park.

(b) In addition to the requirements of subsection (a), the P.O.W.-M.I.A. flag may be displayed over the state capitol, in accordance with § 4-1-406(a), on any day the United States flag is displayed over the state capitol.

59-1-113. Owners and operators to make annual statistical reports — Inspection of books.

(a) Every owner or operator engaged in mining, quarrying, or production of coal, cobalt, copper, fluorspar, gold, iron ores, lead, zinc, manganese, natural and other gas, petroleum, phosphate rock, platinum, silver, marble and other stone, gypsum, ocher, pyrites, clay products, slate or other minerals, or engaged in the manufacture of coke, coal tar, gas, pig iron, ammonium sulphate, gas coke, Portland and other natural cements and all other by-products of any other mineral produced in this state, shall on or before February 15 of each year make out and send to the department of labor and workforce development on a form prescribed by the division a detailed annual report giving statistics and information concerning the output of mines or
plants or other business, the tonnage or man hours for mines that do not measure tons mined, number of employees, and the estimated number of days worked.

(b) It is a Class C misdemeanor for any person to fail or refuse to furnish the department any and all information called for in the annual report as above provided for each day of delay, any fine to go to the state of Tennessee. It is the duty of the commissioner of labor and workforce development or the commissioner's designated representative to report such failure to the district attorney general of the district where the mine, quarry, plant, or other work is situated; and in the event of the failure to furnish such information, it shall be the duty of the commissioner or the commissioner's designated representative to call upon such persons and inspect such books and records as will give the information above provided for; and such person shall be required to permit examination of all necessary books or records.

59-4-301. Qualifications and duties of mine foreman — Penalty for failure to comply with laws.

(a) In order to protect the health and safety of persons employed in or around mines and the mine property, the operator or superintendent shall employ a competent and practical overseer of each and every mine whose title shall be "mine foreman."

(b) The foreman shall be certified as hereinbefore required in this chapter, and shall see that the applicable federal and state safety and health standards, regulations, and laws are complied with. Where it is necessary that the mine foreman be temporarily absent from the mine, the foreman shall place the mine in charge of a qualified assistant during such absence.

(c)(1) As used in this section:
   (A) “Mining site” means all mines and the surrounding property used in mining operations; and
   (B) “Qualified assistant” means a person who is designated by the owner or operator to ensure that all legal, safety, and compliance standards are enforced.
(2) A qualified assistant shall have the ability, training, knowledge, and experience to ensure compliance with all legally imposed safety standards.
(3) A qualified assistant must be able to effectively communicate legally imposed safety standards to all persons present at the mining site.
(4) A qualified assistant shall have the same authority as the foreman when the foreman is not present at the mining site.
(5) A qualified assistant shall not be considered an agent or representative of the owner or operator for the purposes of § 59-4-302.
(6) More than one (1) person may be designated as a qualified assistant, if circumstances or logistics related to the mining site so require.
(7)(A) The designation by the owner or operator of a qualified assistant shall be in writing and specify the beginning and end dates of the designation.
   (B) The written designation required under subdivision (c)(7)(A) shall be prominently displayed at the office of the foreman on site, or displayed in such a manner that persons present at the mining site have actual notice of the designation.
(d) Failure of the mine foreman to comply with the duties set forth herein is a Class B misdemeanor.
61-1-1001. Application process — Registered limited liability partnership. [Effective until January 1, 2018. See the version effective on January 1, 2018.]

(a) To become a registered limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office (and a mailing address such as a post office box if the United States postal service does not deliver to the principal office); if the partnership’s principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership will be required to maintain; a brief statement of the business in which the partnership engages; other matters that the partnership determines to include; and that the partnership thereby applies for status as a registered limited liability partnership.

(b) The application shall be executed by one (1) or more partners authorized to execute an application. The registration of a general partnership or limited partnership as a registered limited liability partnership must be approved in the case of a general partnership by a majority of the partners or as otherwise provided in the partnership agreement or, in the case of a limited partnership, by all of the partners, notwithstanding any provision to the contrary in the limited partnership agreement, unless such limited partnership was formed after July 1, 1995, and the original agreement of limited partnership provided for a conversion or a procedure of conversion of the limited partnership to a registered limited liability partnership without the consent of all partners, in which case the approval or procedure under the original limited partnership agreement shall be sufficient.

(c) The application shall be accompanied by a fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500).

(d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed application with the required fee.

(e) A partnership registered under this section shall pay, in each year following the year in which its application is filed, on a date specified by the secretary of state, an annual fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500). The fee must be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership’s application for registration.

(f) A partnership becomes a registered limited liability partnership at the time of the filing of the application, or at such later time as is specified in the application, if there has been substantial compliance with the requirements of this chapter. Registration remains effective until:

1. The secretary of state files a written withdrawal statement or other similar document:
   (A) Executed and submitted by one (1) or more partners authorized to execute a withdrawal statement, which shall be accompanied by a fee of twenty dollars ($20.00); and
   (B) Accompanied by a tax clearance for termination or withdrawal
relative to such registered limited liability partnership; or

(2) Sixty (60) days after the secretary of state mails to the partnership at its last address of record a notice that the partnership has failed to make timely payment of the annual fee specified in subsection (e), unless the fee is paid within such sixty-day period.

(g) The status of a partnership as a registered limited liability partnership and the liability of the partners thereof shall not be affected by:

(1) Errors in the information stated in an application under subsection (a) or a notice under subsection (e); or

(2) Changes after the filing of such an application or notice in the information stated in the application or notice.

(h) The secretary of state may provide forms for an application under subsection (a) or a notice under subsection (e).

(i) A partnership that registers as a registered limited liability partnership is not deemed to have dissolved as a result thereof and is for all purposes the same partnership that existed before the registration and continues to be a partnership under the laws of this state.

(j) If a registered limited liability partnership dissolves and the business of the partnership is continued without winding-up or liquidation of the partnership affairs, the partnership which continues the business of the dissolved partnership is a registered limited liability partnership and is not required to file a new application and is deemed to have filed any documents required or permitted under this chapter which were filed by the predecessor partnership.

(k) If a registered limited liability partnership dissolves and the business of the partnership is not continued, then during the wind-up or liquidation period the partners of such partnership shall continue to be subject to § 61-1-306(c)-(f).

(l) If a partnership registers as a registered limited liability partnership, a partner (in the case of a general partnership), or a general partner (in the case of a limited partnership), remains liable for an obligation incurred by the partnership before the partnership registered as a registered limited liability partnership. The partner’s liability for obligations and liabilities of the registered limited liability partnership incurred after registration is as provided in § 61-1-306.

(m) The fact that an application or notice is on file in the office of the secretary of state is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the application or notice.

(n) A registered limited liability partnership may amend its registration by filing with the secretary of state a statement of amendment containing the name of the partnership, the address of its principal office or registered office in this state, and the amendment. The statement of amendment shall be accompanied by a fee of twenty dollars ($20.00).

(o) The secretary of state may furnish upon request and payment of a fee of twenty dollars ($20.00) a certificate of good standing indicating that a registered limited liability partnership is registered in good standing.

61-1-1001. Application process — Registered limited liability partnership. [Effective on January 1, 2018. See the version effective until January 1, 2018.]

(a) To become a registered limited liability partnership, a partnership must file with the secretary of state an application stating the name of the partner-
ship; the address of its principal office; if the partnership’s principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership will be required to maintain; a brief statement of the business in which the partnership engages; other matters that the partnership determines to include; and that the partnership thereby applies for status as a registered limited liability partnership.

(b) The application must be executed by one (1) or more partners authorized to execute an application. The registration of a general partnership as a registered limited liability partnership must be approved by a majority of the partners or as otherwise provided in the partnership agreement.

c) The application must be accompanied by a fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500).

d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed application with the required fee.

(e) A partnership registered under this section shall pay, in each year following the year in which its application is filed, on a date specified by the secretary of state, an annual fee of fifty dollars ($50.00) for each partner on the date of filing, subject to a minimum of two hundred fifty dollars ($250) and a maximum of two thousand five hundred dollars ($2,500). The fee must be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership’s application for registration.

(f) A partnership becomes a registered limited liability partnership at the time of the filing of the application, or at a later time as is specified in the application, if there has been substantial compliance with this chapter. Registration remains effective until:

1) The secretary of state files a written withdrawal statement or other similar document:

   A) Executed and submitted by one (1) or more partners authorized to execute a withdrawal statement, which shall be accompanied by a fee of twenty dollars ($20.00); and

   B) Accompanied by a tax clearance for termination or withdrawal relative to such registered limited liability partnership; or

2) Sixty (60) days after the secretary of state mails to the partnership at its last address of record a notice that the partnership has failed to make timely payment of the annual fee specified in subsection (e), unless the fee is paid within the sixty-day period.

(g) The status of a partnership as a registered limited liability partnership and the liability of the partners of the partnership is not affected by:

1) Errors in the information stated in an application under subsection (a) or a notice under subsection (e); or

2) Changes after the filing of such an application or notice in the information stated in the application or notice.

(h) The secretary of state may provide forms for an application under subsection (a) or a notice under subsection (e).

(i) A partnership that registers as a registered limited liability partnership is not deemed to have dissolved as a result of such registration and is for all purposes the same partnership that existed before the registration and contin-
ues to be a partnership under the laws of this state.

(j) If a registered limited liability partnership dissolves and the business of the partnership is continued without winding up or liquidation of the partnership affairs, the partnership that continues the business of the dissolved partnership is a registered limited liability partnership and is not required to file a new application and is deemed to have filed any documents required or permitted under this chapter which were filed by the predecessor partnership.

(k) If a registered limited liability partnership dissolves and the business of the partnership is not continued, then during the wind up or liquidation period the partners of such partnership shall continue to be subject to § 61-1-306(c)-(f).

(l) If a partnership registers as a registered limited liability partnership, a partner remains liable for an obligation incurred by the partnership before the partnership registered as a registered limited liability partnership. The partner’s liability for obligations and liabilities of the registered limited liability partnership incurred after registration is as provided in § 61-1-306.

(m) The fact that an application or notice is on file in the office of the secretary of state is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the application or notice.

(n) A registered limited liability partnership may amend its registration by filing with the secretary of state a statement of amendment containing the name of the partnership, the address of its principal office or registered office in this state, and the amendment. The statement of amendment shall be accompanied by a fee of twenty dollars ($20.00).

(o) The secretary of state may furnish upon request and payment of a fee of twenty dollars ($20.00) a certificate of good standing indicating that registered limited liability partnership is registered in good standing.

61-2-1202. Short title. [Effective until January 1, 2018. See the version effective on January 1, 2018.]

This chapter may be cited as the “Tennessee Revised Uniform Limited Partnership Act.”

61-2-1202. Short title. [Effective on January 1, 2018. See the version effective until January 1, 2018.]

This chapter shall be known and may be cited as the “Tennessee Uniform Limited Partnership Act of 1988.”

61-3-101. Definitions. [Effective January 1, 2018.]

As used in this chapter:

1. “Certificate of limited partnership”:
   (A) Means the certificate required by § 61-3-201; and
   (B) Includes the certificate as amended or restated;
2. “Contribution,” except when used in the phrase “right of contribution”, means property or a benefit described in § 61-3-501 that is provided by a person to a limited partnership to become a partner or in the person’s capacity as a partner;
3. “Debtor in bankruptcy” means a person that is the subject of:
   (A) An order for relief under 11 U.S.C. § 101 et seq. or a comparable order under a successor statute of general application; or
(B) A comparable order under federal, state, or foreign law governing insolvency;

(4) “Distribution”:
(A) Means a direct or indirect transfer of money or other property by a limited partnership, except for the issuance of its own partnership interests, with or without consideration, or an incurrence or issuance of indebtedness, whether directly or indirectly, including through a guaranty to or for the benefit of any of its partners in respect of partnership interests;
(B) Includes interim distribution or a liquidation distribution; a purchase, redemption, or other acquisition of its partnership interests; of a distribution indebtedness, which includes the incurrence of indebtedness, whether directly or indirectly, including through a guaranty, for the benefit of the limited partnership’s partners; or any other transaction;
(C) Does not mean amounts paid to or for the benefit of partners as compensation or benefits for services rendered by the partners in their capacities as partners, agents, or independent contractors;

(5) “Foreign limited liability limited partnership” means a foreign limited partnership whose general partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to § 61-3-404(c);

(6) “Foreign limited partnership”:
(A) Means an unincorporated entity formed under the laws of a jurisdiction other than this state that would be a limited partnership if formed under the laws of this state; and
(B) Includes a foreign limited liability limited partnership;

(7) “General partner” means a person that:
(A) Has become a general partner under § 61-3-401 or was a general partner in a partnership when the partnership became subject to this chapter; and
(B) Has not dissociated as a general partner under § 61-3-603;

(8) “Jurisdiction,” used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country;

(9) “Jurisdiction of formation” means the jurisdiction whose laws govern the internal affairs of an entity;

(10) “Limited liability limited partnership,” except when used in the phrase “foreign limited liability limited partnership” and in part 11 of this chapter, means a limited partnership whose certificate of limited partnership states that the partnership is a limited liability limited partnership;

(11) “Limited partner” means a person that:
(A) Has become a limited partner under § 61-3-301 or was a limited partner in the partnership when the partnership became subject to this chapter; and
(B) Has not been dissociated under § 61-3-601;

(12) “Limited partnership”, except in the phrase “foreign limited partnership” and in part 11 of this chapter:
(A) Means an entity formed under this chapter or which becomes subject to this chapter under part 11 of this chapter or § 61-3-1207; and
(B) Includes a limited liability limited partnership;

(13) “Partner” means a limited partner or general partner;

(14) “Partnership agreement”:
(A) Means the agreement, whether or not referred to as a partnership agreement and whether oral, implied, in a record, or in any combination thereof, of all the partners of a limited partnership concerning the matters described in § 61-3-104(a); and

(B) Includes the agreement as amended or restated;

(15) “Person” means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;

(16) “Principal office” means the principal executive office of a limited partnership or foreign limited partnership, whether or not the office is located in this state;

(17) “Property” means all property, whether real, personal, mixed, or tangible or intangible, or any right or interest in such property;

(18) “Record,” when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(19) “Registered agent” means an agent of a limited partnership or foreign limited partnership who is authorized to receive service of any process or notice required or permitted by law to be served on the partnership;

(20) “Registered foreign limited partnership” means a foreign limited partnership that is registered to do business in this state pursuant to a statement of registration filed by the secretary of state;

(21) “Required information” means the information that a limited partnership is required to maintain under § 61-3-107;

(22) “Sign” means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process;

(23) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

(24) “Transfer” includes:

(A) An assignment;

(B) A conveyance;

(C) A sale;

(D) A lease;

(E) An encumbrance, including a mortgage or security interest;

(F) A gift; and

(G) A transfer by operation of law.

61-3-102. Knowledge — notice. [Effective January 1, 2018.]

(a) A person knows a fact if the person:

(1) Has actual knowledge of it; or

(2) Is deemed to know it under law other than this chapter.

(b) A person has notice of a fact if the person:

(1) Has reason to know the fact from all the facts known to the person at the time in question; or
(2) Is deemed to have notice of the fact under subsection (c) or (d).

(c) A certificate of limited partnership filed with the secretary of state is notice that the partnership is a limited partnership and that the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection (d), the certificate is not notice of any other fact not set out in this subsection (c).

(d) A person who is not a partner, is deemed to have notice of:

(1) A person’s dissociation as a general partner the earlier of:
   (A) Ninety (90) days after an amendment to the certificate of limited partnership stating that the other person has dissociated becomes effective; or
   (B) Ninety (90) days after a statement of dissociation pertaining to the other person becomes effective;

(2) A limited partnership’s:
   (A) Dissolution ninety (90) days after an amendment to the certificate of limited partnership stating that the limited partnership is dissolved becomes effective; termination ninety (90) days after a statement of termination under § 61-3-802(b)(2)(F) becomes effective; and
   (B) Participation in a merger, conversion, or domestication, ninety (90) days after articles of merger, conversion, or domestication under part 11 of this chapter become effective.

(e) Subject to § 61-3-209(f), a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

(f) A general partner’s knowledge or notice of a fact relating to the limited partnership is effective immediately as knowledge of or notice to the partnership, except in the case of a fraud on the partnership committed by or with the consent of the general partner. A limited partner’s knowledge or notice of a fact relating to the partnership is not effective as knowledge of or notice to the partnership.

61-3-103. Governing law. [Effective January 1, 2018.]

The law of this state governs:

(1) The internal affairs of a limited partnership; and

(2) The liability of a partner as partner for a debt, obligation, or other liability of a limited partnership.

61-3-104. Partnership agreement — Scope, function, and limitations. [Effective January 1, 2018.]

(a) Except as otherwise provided in subsections (c) and (d), the partnership agreement governs:

(1) Relations among the partners as partners and between the partners and the limited partnership;

(2) The activities and affairs of the partnership and the conduct of those activities and affairs; and

(3) The means and conditions for amending the partnership agreement.

(b) To the extent the partnership agreement does not provide for a matter described in subsection (a), this chapter governs the matter.

(c) A partnership agreement shall not:

(1) Vary the law applicable under § 61-3-103;
(2) Vary a limited partnership’s capacity under § 61-3-110 to sue and be sued in its own name;
(3) Vary § 61-3-204;
(4) Vary the right of a general partner under § 61-3-406(b)(2) to vote on or consent to an amendment to the certificate of limited partnership deleting a statement that the limited partnership is a limited liability limited partnership;
(5) Vary the notice requirements under § 61-3-102 or under this chapter in a manner that is manifestly unreasonable;
(6) Vary the requirements with respect to the limited partnership’s name under § 61-3-112;
(7) Vary the requirement under § 61-3-119 regarding the Workers’ Compensation Law, compiled in title 50, chapter 6;
(8) Eliminate or vary the restrictions on reimbursement and indemnification contained in § 61-3-408(a) and (b);
(9) Eliminate or vary the potential for personal liability of a general partner under § 61-3-404;
(10) Eliminate or vary this section;
(11) Eliminate or vary the limitations on distributions in § 61-3-504;
(12) Eliminate or vary the liability for unlawful distributions in § 61-3-505;
(13) Unreasonably restrict a right to information or access to records under § 61-3-304 or § 61-3-407;
(14) Eliminate or restrict the duty of loyalty under § 61-3-409(b)(1) or (b)(2), except to the extent provided by subsection (d);
(15) Unreasonably reduce the duty of care under § 61-3-409;
(16) Eliminate the obligation of good faith and fair dealing under § 61-3-305(a) and § 61-3-409(d), but the partnership agreement may determine standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;
(17) Vary the grounds for expulsion specified in § 61-3-603(5)(B);
(18) Vary the power of person to dissociate as a general partner under § 61-3-604(a), except to require that the notice under § 61-3-603(1) be in a record;
(19) Vary the causes of dissolution specified in § 61-3-801(a)(6);
(20) Vary the requirement to wind up the partnership’s activities and affairs as specified in § 61-3-802(a), (b)(1), and (d);
(21) Vary the provisions of § 61-3-905, but the partnership agreement may provide that the partnership shall not have a special litigation committee;
(22) Vary any requirements relating to documents required to be filed with the secretary of state or any register of deeds, or otherwise vary or restrict any other rights of the secretary of state or any register of deeds; and
(23) Except as provided in §§ 61-3-105 and 61-3-106(b), vary or restrict any rights of any person under this chapter, other than a partner.

(d) Without limiting other terms that may be included in a partnership agreement, the following applies:

(1) The partnership agreement may:

(A) Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one (1) or more disinterested and independent persons after full disclosure of all material facts; and
(B) Alter the prohibition in § 61-3-504(a)(2) so that the prohibition requires only that the partnership’s total assets not be less than the sum of its total liabilities; and

(2) If not manifestly unreasonable, the partnership agreement may:

(A) Alter or eliminate the aspects of the duty of loyalty stated in § 61-3-409(b)(1) or (b)(2);

(B) Identify specific types or categories of activities that do not violate the duty of loyalty;

(C) Alter the duty of care, but shall not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(e) The court shall decide as a matter of law whether a term of a partnership agreement is manifestly unreasonable under subdivision (c)(5), (c)(16), or (d)(2).

The court:

(1) Shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve its objective.

61-3-105. Partnership agreement — Effect on limited partnership and person becoming partner — Preformation agreement. [Effective January 1, 2018.]

(a) A limited partnership is bound by and may enforce the partnership agreement, whether or not the partnership has itself manifested assent to the agreement.

(b) A person that becomes a partner is deemed to assent to the partnership agreement.

(c) Two (2) or more persons intending to become the initial partners of a limited partnership may make an agreement providing that upon the formation of the partnership, the agreement shall become the partnership agreement.

61-3-106 Partnership agreement — Effect on third parties and relationship to records effective on behalf of limited partnership. [Effective January 1, 2018.]

(a) A partnership agreement may specify that its amendment requires the approval of a person who is not a party to the agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited partnership and its partners to a person in the person’s capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under § 61-3-703(b)(2) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:

(1) Is effective with regard to any debt, obligation, or other liability of the partnership or its partners to the person in the person’s capacity as a transferee or person dissociated as a partner; and
(2) Is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner.

(c) If a record delivered by a limited partnership to the secretary of state for filing becomes effective and contains a provision that would be ineffective under § 61-3-104(c) if contained in the partnership agreement, the provision is ineffective in the record.

(d) Subject to subsection (c), if a record delivered by a limited partnership to the secretary of state for filing becomes effective and conflicts with the partnership agreement:

(1) The agreement prevails as to partners, persons dissociated as partners, and transferees; and

(2) The record prevails as to other persons to the extent they reasonably rely on the record.

61-3-107. Required information. [Effective January 1, 2018.]

A limited partnership shall maintain at its principal office the following information:

(1) A current list showing the full name and last known street and mailing address, including zip codes, of each partner, separately identifying the general partners, and the limited partners;

(2) A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;

(3) A copy of any filed articles of merger or conversion;

(4) A copy of the partnership’s federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(5) A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) A copy of any financial statement of the partnership for the three (3) most recent years;

(7) A copy of the three (3) most recent annual reports delivered by the partnership to the secretary of state pursuant to § 61-3-211;

(8) A copy of any record made by the partnership during the past three (3) years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and

(9) Unless contained in a partnership agreement made in a record, a record stating:

(A) A description and statement of the agreed value of contributions other than money made and agreed to be made by each partner;

(B) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(C) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(D) Any events upon the happening of which the partnership is to be dissolved and its activities and affairs wound up.

61-3-108. Dual capacity. [Effective January 1, 2018.]

A person may be both a general partner and a limited partner. A person that
is both a general and limited partner has the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.


(a) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

(b) A limited partnership may have any lawful purpose, regardless of whether for profit.

(c) A limited partnership has perpetual duration.

61-3-110. Powers. [Effective January 1, 2018.]

A limited partnership has the capacity to sue and be sued in the name of the partnership and the power to do all things necessary or convenient to carry on the partnership’s activities and affairs.

61-3-111. Supplemental principles of law. [Effective January 1, 2018.]

Unless displaced by this chapter, the principles of law and equity supplement this chapter.

61-3-112. Permitted names. [Effective January 1, 2018.]

(a) The name of a limited partnership may contain the name of any partner, but must not contain the phrases “corporation,” “incorporated,” “limited liability company,” or abbreviations of like import.

(b) The name of a limited partnership that is not a limited liability limited partnership must contain the phrase “limited partnership” or the abbreviation “LP” or “L.P.” and must not contain the phrase “limited liability limited partnership” or the abbreviation “LLLP” or “L.L.L.P.”

(c) The name of a limited liability limited partnership must contain the phrase “limited liability limited partnership” or the abbreviation “LLLP” or “L.L.L.P.” and must not contain the abbreviation “LP” or “L.P.”.

(d) The name of a limited partnership, and the name under which a foreign limited partnership may register to do business in this state, must be distinguishable on the records of the secretary of state from any:

1. Name of an existing person whose formation required the filing of a record by the secretary of state and which is not at the time administratively dissolved;

2. Name of a limited liability partnership whose statement of qualification is in effect;

3. Name under which a person is registered to do business in this state by the filing of a record by the secretary of state;

4. Name reserved under § 61-3-113 or other law of this state providing for the reservation of a name by the filing of a record by the secretary of state; and
(5) Name registered under § 61-3-114 or other law of this state providing for the registration of a name by the filing of a record by the secretary of state.

(e) A domestic or foreign limited partnership, or person acting on behalf of a limited partnership not yet formed, may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state’s records from one (1) or more of the names described in subsection (d). The secretary of state shall authorize use of the indistinguishable name applied for, if:

1. The person holding the right to use the previously filed name described in subsection (d) consents to the use in writing and submits an undertaking, in a form satisfactory to the secretary of state, to cancel its reservation of the name or change the name to a name that is distinguishable upon the records of the secretary of state from the name of the applicant;

2. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant’s right to use the name applied for in this state; or

3. The person holding the right to use the previously filed name described in subsection (d) consents in writing to the use of the name by the applicant, and both the other person and the applicant consent in a form satisfactory to the secretary of state to use the same registered agent.


(g) The name of a limited partnership or foreign limited partnership must not contain language stating or implying that the limited partnership or foreign limited partnership:

1. Transacts or has the power to transact any business for which authorization, in whatever form and however denominated, is required under the laws of this state, unless the appropriate commission or official has granted the authorization and certifies that fact to the secretary of state in writing;

2. Is formed as, affiliated with or sponsored by, any fraternal, veterans’, service, religious, charitable or professional organization, unless the formation, affiliation or sponsorship is certified in writing to the secretary of state by the body authorizing the formation or the organization with which affiliation or sponsorship is claimed, as applicable; or

3. Is an agency or instrumentality of, affiliated with or sponsored by the United States, any state, or a subdivision or agency of the United States, unless the fact is certified in writing to the secretary of state by the appropriate official of the United States, the state, or the subdivision or agency, as applicable.

(h) A limited partnership or foreign limited partnership may use a name that is not distinguishable from a name described in subdivisions (d)(1)-(5) if the partnership delivers to the secretary of state a certified copy of a final judgment.
of a court of competent jurisdiction establishing the right of the partnership to use the name in this state.

61-3-113. Reservation of name. [Effective January 1, 2018.]

(a) A person may reserve the exclusive use of a name that complies with § 61-3-112 by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name to be reserved. If the secretary of state finds that the name is available, the secretary of state shall reserve the name for the applicant's exclusive use for one hundred twenty (120) days.

(b) The owner of a reserved name may transfer the reservation to another person by delivering to the secretary of state a signed notice in a record of the transfer which states the name and address of the person to which the reservation is being transferred.

(c) The reservation of a specific name may be cancelled by filing with the secretary of state a notice, executed by the applicant or transferee, specifying the name reservation to be cancelled and the name and address of the applicant or transferee.

61-3-114 Registration of name. [Effective January 1, 2018.]

(a) A foreign limited partnership not registered to do business in this state under part 10 of this chapter may register its name, or an alternate name adopted pursuant to § 61-3-1006, if the name is distinguishable on the records of the secretary of state from the names that are not available under § 61-3-112.

(b) To register its name or an alternate name adopted pursuant to § 61-3-1006, a foreign limited partnership must deliver to the secretary of state for filing an application stating the partnership's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to § 61-3-1006. If the secretary of state finds that the name applied for is available, the secretary of state must register the name for the applicant's exclusive use.

(c) The registration of a name under this section is effective for one (1) year after the date of registration.

(d) A foreign limited partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three (3) months before the expiration of the registration, to the secretary of state for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.

(e) A foreign limited partnership whose name registration is effective may register as a foreign limited partnership under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

61-3-115. Registered agent. [Effective January 1, 2018.]

(a) Each limited partnership and each registered foreign limited partnership shall designate and maintain a registered agent in this state. The designation of a registered agent is an affirmation of fact by the limited partnership or registered foreign limited partnership that the agent has consented to be served.

(b) A registered agent for a limited partnership or registered foreign limited
partnership must have a place of business in this state.

(c) The only duties under this chapter of a registered agent that has complied with this chapter are:

1. To forward to the limited partnership or registered foreign limited partnership at the address most recently supplied to the agent by the partnership or foreign partnership any process, notice, or demand pertaining to the partnership or foreign partnership which is served on or received by the agent;

2. If the registered agent resigns, to provide the notice required by § 61-3-117(a)(4) to the partnership or foreign partnership at the address most recently supplied to the agent by the partnership or foreign partnership; and

3. To keep current the information with respect to the agent in the certificate of limited partnership.

61-3-116. Change of registered agent or address for registered agent by limited partnership. [Effective January 1, 2018.]

(a) A limited partnership or registered foreign limited partnership may change its registered agent or the address of its registered agent by delivering to the secretary of state for filing a statement of change that states:

1. The name of the limited partnership or registered foreign limited partnership;

2. The street address of its current registered office;

3. If the current registered office is to be changed, the street address of the new registered office and zip code for the office, and the county in which the office is located;

4. The name of its current registered agent; and

5. If the current registered agent is to be changed, the name of the new registered agent.

(b) The general or limited partners of a limited partnership need not approve the delivery to the secretary of state for filing of:

1. A statement of change under this section; or

2. A similar filing changing the registered agent or registered office, if any, of the partnership in any other jurisdiction.

(c) A statement of change under this section designating a new registered agent is an affirmation of fact by the limited partnership or registered foreign limited partnership that the agent has consented to serve.

(d) As an alternative to using the procedure in this section, a limited partnership may amend its certificate of limited partnership.

61-3-117. Resignation of registered agent. [Effective January 1, 2018.]

(a) A registered agent may resign as an agent for a limited partnership or registered foreign limited partnership by delivering to the secretary of state for filing a statement of resignation that states:

1. The name of the limited partnership or registered foreign limited partnership;

2. The name of the agent;

3. That the agent resigns from serving as registered agent for the limited partnership or registered foreign limited partnership; and

4. A certification that the registered agent has mailed a copy of the statement to the principal office of the limited partnership by certified mail.

(b) The agency appointment is terminated, and the registered office discon-
tinued if so provided, on the date on which the statement is filed by the secretary of state. When a statement of resignation takes effect, the registered agent ceases to have responsibility under this chapter for any matter thereafter tendered to it as agent for the limited partnership or registered foreign limited partnership. The resignation does not affect any contractual rights the limited partnership or registered foreign limited partnership has against the agent or that the agent has against the limited partnership or registered foreign limited partnership.

(c) A registered agent may resign with respect to a limited partnership or registered foreign limited partnership whether or not the limited partnership or registered foreign limited partnership is in good standing.

(d) If a registered agent resigns or is unable to perform its duties, the designating limited partnership must, not later than sixty (60) days after the resignation or discovery that the agent is unable to perform its duties, designate another registered agent to the end that it shall at all times have a registered agent in this state.

61-3-118. Change of name or address by registered agent. [Effective January 1, 2018.]

(a) If a registered agent changes its name or address, the agent shall deliver to the secretary of state for filing a statement of change that states:

(1) The name of the limited partnership or registered foreign limited partnership represented by the registered agent;

(2) The name of the agent as currently shown in the records of the secretary of state for the limited partnership or registered foreign limited partnership;

(3) If the name of the agent has changed, the agent’s new name; and

(4) If the address of the agent has changed, the agent’s new address and a mailing address, such as a post office box if the United States postal service does not deliver to the agent’s street address.

(b) A registered agent shall promptly furnish notice to the represented limited partnership or registered foreign limited partnership of the filing by the secretary of state of the statement of change and the changes made by the statement.

61-3-119. Service of process, notice, or demand. [Effective January 1, 2018.]

(a) A limited partnership’s registered agent is the limited partnership’s agent for service of process, notice, or demand required or permitted by law to be served on the limited partnership.

(b) The secretary of state shall be an agent of a limited partnership upon whom any process, notice, or demand may be served when:

(1) A domestic or foreign limited partnership authorized to do business in this state fails to appoint or maintain a registered agent in this state;

(2) Its registered agent cannot be found with reasonable diligence;

(3) A foreign limited partnership transacts business or conducts affairs in this state without first submitting an application for registration with the secretary of state; or

(4) The registration of a foreign limited partnership has been cancelled.

(c) Whenever a domestic or foreign limited partnership authorized to do business in this state is an employer within the meaning of the Workers’ Compensation Law, compiled in title 50, chapter 6, and the limited partnership
is, for the purpose of workers' compensation, self-insured or a part of a self-insurance pool as provided in title 50, chapter 6, part 4, the limited partnership shall, for workers' compensation actions only, be required to appoint the commissioner of commerce and insurance and the commissioner's chief deputy, or their successors, as its true and lawful attorneys upon either of whom all lawful process in any such action or legal proceeding may be served, as is required of insurance companies by title 56, chapter 2.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a limited partnership.

61-3-120. Delivery of record. [Effective January 1, 2018.]

(a) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, mail, conventional commercial practice, and electronic transmission.

(b) Delivery to the secretary of state is effective only when a record is received by the secretary of state.

61-3-121. Service on secretary of state. [Effective January 1, 2018.]

(a) Service on the secretary of state, when the secretary of state is an agent for a domestic or foreign limited partnership as provided in § 61-3-119(b), of any process, notice or demand must be made by delivering to the secretary of state the original and one (1) copy of the process, notice, or demand, duly certified by the clerk of the court in that the suit or action is pending or brought, together with the proper fee. A statement that identifies which of the grounds listed in § 61-3-119(b) for service on the secretary of state must be included. The secretary of state shall endorse the time of receipt upon the original and copy and shall immediately send the copy, along with a written notice that service of the original was also made, by registered or certified mail, with return receipt requested, addressed to the limited partnership at its registered office or principal office, or designated alternative mailing address, as shown in the records on file in the secretary of state's office or as shown in the official registry of the state or country in which the limited partnership is formed. If none of the addresses described in the previous sentence are available to the secretary of state, service may be made to any one (1) of the general partners at the address set forth in the certificate of limited partnership. The secretary of state may require the plaintiff, or complainant as the case may be, or the plaintiff's attorney, to furnish the latter address.

(b) The refusal or failure of the limited partnership to accept delivery of the registered or certified mail provided for in subsection (a), or the refusal or failure to sign the return receipt, does not affect the validity of the service, and any limited partnership refusing or failing to accept delivery of registered or certified mail shall be charged with knowledge of the contents of any process, notice, or demand contained in the registered or certified mail.

(c) When the registered or certified mail return receipt is received by the secretary of state or when a limited partnership refuses or fails to accept delivery of the registered or certified mail and it is returned to the secretary of state, the secretary of state shall forward the receipt or the refused or undelivered mail to the clerk of the court in which the suit or action is pending, together with the original process, notice, or demand, a copy of the notice the secretary of state sent to the defendant limited partnership and the affidavit setting forth
compliance with this section. Upon receipt thereof, the clerk shall copy the affidavit on the rule docket of the court and shall mark it, the receipt or refused or undelivered mail, and the copy of notice as of the day received and place them in the file of the suit or action where the process and pleadings are kept, and the receipt or refused or undelivered mail, affidavit, and copy of notice shall be and become a part of the technical record in the suit or action, and service on the defendant shall be complete. Service made under this section has the same legal force and validity as if the service had been made personally in this state.

(d) Subsequent pleadings or papers permitted or required to be served on a defendant domestic or foreign limited partnership may be served on the secretary of state as agent for the defendant limited partnership in the same manner, at the same cost and with the same effect as process, notice or demand are served on the secretary of state as agent for the defendant limited partnership under this section.

(e) No appearance is required in the suit or action by the defendant domestic or foreign limited partnership nor shall any judgment be taken against the domestic or foreign limited partnership in less than one (1) month after the date service is completed under this section.

(f) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, which record shall include the time of the service and the action with reference thereto.

61-3-201. Formation of limited partnership — Certificate of limited partnership. [Effective January 1, 2018.]

(a) To form a limited partnership, a person must deliver a certificate of limited partnership to the secretary of state for filing.

(b) A certificate of limited partnership must state:

(1) The name of the limited partnership, that complies with § 61-3-112;
(2) The street and mailing addresses of the partnership’s principal office; the address of its principal office, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office;
(3) If the partnership’s principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership is required to maintain; the name of the limited partnership’s initial registered agent and street and addresses in this state of the partnership’s registered office and the county in which the registered office is located;
(4) The name and street and mailing addresses of each general partner, and a mailing address such as a post office box if the United States postal service does not deliver to the general partner’s address; and
(5) Whether the limited partnership is a limited liability limited partnership.

(c) A certificate of limited partnership may contain statements as to matters other than those required by subsection (b), but must not vary or otherwise affect § 61-3-104(c) and (d) in a manner inconsistent with that section.

(d) The partnership agreement must not be filed.

(e) A limited partnership is formed when:

(1) The initial certificate of limited partnership is filed with the secretary of state or at any later date or time specified in the certificate of limited partnership in accordance with and subject to § 61-3-207;
2) At least two (2) persons have become partners;
(3) At least one (1) person has become a general partner; and
(4) At least one (1) person has become a limited partner.

61-3-202. Amendment or restatement of certificate of limited partnership. [Effective January 1, 2018.]

(a) A certificate of limited partnership may be amended or restated at any time.
(b) To amend its certificate of limited partnership, a limited partnership must deliver to the secretary of state for filing an amendment stating:
   (1) The name of the partnership; and
   (2) The text of the amendment.
(c) To restate its certificate of limited partnership, a limited partnership must deliver to the secretary of state for filing a restatement, designated as such in its heading.
(d) A limited partnership shall, not later than sixty (60) days after the happening of any of the following events, deliver to the secretary of state for filing an amendment to a certificate of limited partnership to reflect:
   (1) The admission of a new general partner;
   (2) The dissociation of a person as a general partner; or
   (3) The appointment of a person to wind up the limited partnership’s activities and affairs under § 61-3-802(c) or (d).
(e) If a general partner knows that any information in a filed certificate of limited partnership was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances, the general partner must, not later than sixty (60) days after the general partner obtains such knowledge:
   (1) Cause the certificate to be amended; or
   (2) If appropriate, deliver to the secretary of state for filing a statement of change under § 61-3-116 or a statement of correction under § 61-3-208.

61-3-203. Signing of records to be delivered for filing to secretary of state. [Effective January 1, 2018.]

(a) The following records delivered to the secretary of state for filing pursuant to this chapter must be signed as follows:
   (1) An initial certificate of limited partnership must be signed by all general partners listed in the certificate;
   (2) An amendment to the certificate of limited partnership adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate;
   (3) An amendment to the certificate of limited partnership designating as general partner a person admitted under § 61-3-801(a)(3)(B) following the dissociation of a limited partnership’s last general partner must be signed by that person;
   (4) An amendment to the certificate of limited partnership required by § 61-3-802(c) following the appointment of a person to wind up the dissolved limited partnership’s activities and affairs must be signed by that person;
   (5) Any other amendment to the certificate of limited partnership must be signed by:
      (A) At least one (1) general partner listed in the certificate;
      (B) Each person designated in the amendment as a new general partner;
and

(C) Each person that the amendment indicates has dissociated as a general partner, unless:

(i) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(ii) The person has previously delivered to the secretary of state for filing a statement of dissociation;

(6) A restated certificate of limited partnership must be signed by at least one (1) general partner listed in the certificate, and, to the extent the restated certificate effects a change to any other record under this subsection (a), the certificate must be signed in a manner that satisfies the applicable subdivision;

(7) A statement of termination must be signed by all general partners listed in the certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to § 61-3-802(c) or (d) to wind up the dissolved limited partnership’s activities and affairs;

(8) Any other record delivered by a limited partnership to the secretary of state for filing must be signed by at least one (1) general partner listed in the certificate of limited partnership;

(9) A statement by a person pursuant to § 61-3-605(a)(3) stating that the person has dissociated as a general partner must be signed by that person;

(10) A statement of negation by a person pursuant to § 61-3-306 must be signed by that person; and

(11) Any other record delivered on behalf of a person to the secretary of state for filing must be signed by that person.

(b) Any record delivered for filing under this chapter may be signed by an agent, including an attorney in fact. An authorization, including a power of attorney, to sign any record or to enter into a partnership agreement or amendment of the partnership agreement must be in writing, but need not be sworn to, verified, or acknowledged, and need not be filed in the office of the secretary of state, but if in writing, must be retained by a general partner. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.

61-3-204. Signing and filing pursuant to judicial order. [Effective January 1, 2018.]

(a) If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing under this chapter does not do so, any other person that is aggrieved may petition the appropriate court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the secretary of state for filing; or

(3) The secretary of state to file the record unsigned.

(b) For purposes of subsection (a), the appropriate court is:

(1) For actions brought under subdivisions (a)(1) and (a)(2), either:

(A) The chancery court for the county in which the partnership maintains its principal office; or

(B) The chancery court of Davidson County; and

(2) For actions brought under subdivision (a)(3), the chancery court of
Davidson County.

(c) If a petitioner under subsection (a) is not the limited partnership or foreign limited partnership to which the record pertains, the petitioner must make the limited partnership or foreign limited partnership a party to the action.

(d) A record filed under subdivision (a)(3) is effective without being signed.

61-3-205. Liability for materially false information in filed record. [Effective January 1, 2018.]

(a) If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains materially false information, a person that suffers loss by reliance on the information may recover damages for the loss from a general partner if:

(1)(A) The record was delivered for filing on behalf of the partnership; and
(B) The general partner knew or had notice of the materially false statement for a reasonably sufficient time before the information was relied upon so that, before the reliance, the general partner reasonably could have:
   (i) Effected an amendment under § 61-3-202;
   (ii) Filed a petition under § 61-3-204; or
   (iii) Delivered to the secretary of state for filing a statement of change under § 61-3-116 or a statement of correction under § 61-3-208; or
(2) After filing, that general partner knew that any arrangement or other fact described in the certificate is materially false in any respect or has changed making the statement materially false, if that general partner had reasonably sufficient time before the information was relied upon to have:
   (A) Effected an amendment under § 61-3-202;
   (B) Filed a petition under § 61-3-204; or
   (C) Delivered to the secretary of state for filing a statement of change under § 61-3-116 or a statement of correction under § 61-3-208.

(b) No general partner has any liability for failing to cause the amendment, correction, or cancellation of a certificate to be filed or failing to file a petition for its amendment, correction, or cancellation pursuant to subsection (a) if the certificate of amendment, certificate of cancellation, or petition is filed within ninety (90) days of when the general partner knew or should have known that the statement in the certificate was false in any material respect.

61-3-206. Filing requirements. [Effective January 1, 2018.]

(a) To be filed by the secretary of state pursuant to this chapter, a record must be received by the secretary of state, must comply with this chapter, and satisfy the following:

(1) The filing of the record must be required or permitted by this chapter;
(2) The record must be physically delivered in written form unless and to the extent the secretary of state permits electronic delivery of the record;
(3) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals;
(4) The record must be signed by a person authorized or required under this chapter to sign the record; and

(5) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowl-
edgment, or verification.

(b) If law other than this chapter prohibits the disclosure by the secretary of state of information contained in a record delivered to the secretary of state for filing, the secretary of state must file the record if the record otherwise complies with this chapter but may redact the information.

(c) When a record is delivered to the secretary of state for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the secretary of state or by that law.

(d) The secretary of state may require that a record delivered in written form be accompanied by an identical or conformed copy.

(e) The secretary of state may provide forms for filings required or permitted to be made by this chapter, but, except as otherwise provided in subsection (f), their use is not required.

(f) The secretary of state may require that a cover sheet for a filing be on a form prescribed by the secretary of state.

(g) The secretary of state has the power to promulgate appropriate rules establishing acceptable methods for execution of any document to be filed with the secretary of state.

61-3-207. Effective date and time. [Effective January 1, 2018.]

(a) Subject to § 61-3-209(d), a record filed under this chapter is effective:

(1) On the date and at the time of its filing by the secretary of state, as provided in § 61-3-209(b);

(2) On the date of filing and at the time specified in the record as its effective time, if later than the time described in subdivision (a)(1);

(3) At a specified delayed effective date and time, which may not be more than ninety (90) days after the date of filing; or

(4) If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than ninety (90) days after the date of filing.

61-3-208. Correcting filed record. [Effective January 1, 2018.]

(a) A person on whose behalf a filed record was delivered to the secretary of state for filing may correct the record if:

(1) The record at the time of filing was inaccurate;

(2) The record was defectively signed; or

(3) The electronic transmission of the record to the secretary of state was defective.

(b) A record is corrected by delivering to the secretary of state for filing a statement of correction that:

(1) Does not state a delayed effective date;

(2) Is signed by the person correcting the filed record;

(3) Identifies the filed record to be corrected, including its filing date, or has attached to the statement of correction a copy of the filed record;

(4) Specifies the inaccuracy or defect to be corrected and the reason it is incorrect; and

(5) Corrects the inaccuracy or defect in the filed record.

(c) A statement of correction is effective as of the effective date of the filed record that it corrects except for purposes of § 61-3-102(d) and as to persons
relying on the uncorrected filed record and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

61-3-209. Duty of secretary of state to file — Review of refusal to file — Delivery of record by secretary of state. [Effective January 1, 2018.]

(a) The secretary of state shall file a record delivered to the secretary of state for filing that satisfies this chapter. The duty of the secretary of state under this section is ministerial.

(b) When the secretary of state files a record, the secretary of state must record it as filed on the date and at the time of its delivery. After filing a record, the secretary of state shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing.

(c) If the secretary of state refuses to file a record, the secretary of state must, not later than fifteen (15) business days after the record is delivered:

(1) Return the record or notify the person that submitted the record of the refusal; and

(2) Provide a brief explanation in a record of the reason for the refusal.

(d)(1) If the secretary of state refuses to file a record, the person that submitted the record may petition the chancery court of Davidson County to compel filing of the record. The record and the explanation of the secretary of state of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

(2) Any judicial review of the secretary of state's refusal to file a record must be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) The filing of or refusal to file a record does not:

(1) Affect the validity or invalidity of the record in whole or in part; or

(2) Create a presumption that the information contained in the record is correct or incorrect.

(f) Except as otherwise provided in § 61-3-119 or by law other than this chapter, the secretary of state may deliver any record to a person by delivering it:

(1) In person to the person that submitted it;

(2) To the address of the person's registered agent;

(3) To the principal office of the person; or

(4) To another address, including an electronic mail address, the person provides to the secretary of state for delivery.

61-3-210. Certificate of existence or registration. [Effective January 1, 2018.]

(a) On request of any person, the secretary of state must issue a certificate of existence for a limited partnership or a certificate of registration for a registered foreign limited partnership.

(b) A certificate under subsection (a) must state:

(1) The limited partnership's name or the registered foreign limited partnership's name used in this state;

(2) In the case of a limited partnership:

(A) That a certificate of limited partnership has been filed and has taken
effect;
(B) The date the certificate became effective;
(C) The period of the partnership’s duration if the records of the
secretary of state reflect that its period of duration is less than perpetual;
and
(D) That:
(i) No statement of administrative dissolution, or statement of termi-
nation has been filed; and
(ii) The records of the secretary of state do not otherwise reflect that the
partnership has been dissolved or terminated;
(3) In the case of a registered foreign limited partnership, that the
registered foreign limited partnership is registered to do business in this
state;
(4) That all fees, taxes, interest, and penalties owed to this state by the
limited partnership or the foreign limited partnership have been paid, if:
(A) Payment is reflected in the records of the secretary of state; and
(B) Nonpayment affects the existence or registration of the limited
partnership or foreign limited partnership; and
(5) Other facts reflected in the records of the secretary of state pertaining to
the limited partnership or foreign limited partnership that the person
requesting the certificate reasonably requests.
(c) Subject to any qualification stated in the certificate, a certificate issued by
the secretary of state under subsection (a) may be relied on as conclusive
evidence of the facts stated in the certificate.

61-3-211. Annual report for secretary of state. [Effective January 1,
2018.]

(a) A limited partnership or registered foreign limited partnership shall
deliver to the secretary of state for filing an annual report that states:
(1) The name of the limited partnership or foreign limited partnership;
(2) The name of its registered agent in this state;
(3) The street address, including the zip code, of its principal office and a
mailing address, such as a post office box if the United States postal service
does not deliver mail to the principal office;
(4) The name of at least one (1) general partner; and
(5) In the case of a foreign limited partnership, its jurisdiction of formation
and any alternate name adopted under § 61-3-1006(a).
(b) Information in the annual report must be current as of the date the report
is signed by the limited partnership or registered foreign limited partnership.
(c) Every limited partnership and registered foreign limited partnership
shall file the annual report with the secretary of state on or before the first day
of the fourth month following the close of the limited partnership or registered
foreign limited partnership’s fiscal year.
(d) If an annual report does not contain the information required by this
section, the secretary of state must promptly notify the reporting limited
partnership or registered foreign limited partnership in a record and return the
report for correction.
(e) If an annual report contains the name or address of a registered agent
that differs from the information shown in the records of the secretary of state
immediately before the report becomes effective, the differing information is
considered a statement of change under § 61-3-116.

(f) If an annual report contains a street or mailing address for the principal office that differs from the information shown in the records of the secretary of state immediately before the report becomes effective, the differing information is considered a statement of change under § 61-3-116.

61-3-301. Becoming limited partner. [Effective January 1, 2018.]

(a) Upon formation of a limited partnership, a person becomes a limited partner as agreed among the persons that are to be the initial partners.

(b) After formation, a person becomes a limited partner:
   (1) As provided in the partnership agreement;
   (2) As the result of a transaction effective under part 11 of this chapter;
   (3) With the affirmative vote or consent of all the partners; or
   (4) As provided in § 61-3-801(a)(4) or (a)(5).

(c) A person may become a limited partner without:
   (1) Acquiring a transferable interest; or
   (2) Making or being obligated to make a contribution to the limited partnership.

61-3-302. No agency power of limited partner as limited partner. [Effective January 1, 2018.]

(a) A limited partner is not an agent of a limited partnership solely by reason of being a limited partner.

(b) A person’s status as a limited partner does not prevent or restrict law other than this chapter from imposing liability on a limited partnership because of the person’s conduct.

61-3-303. No liability as limited partner for limited partnership obligations. [Effective January 1, 2018.]

(a) A debt, obligation, or other liability of a limited partnership is not the debt, obligation, or other liability of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the partnership solely by reason of being or acting as a limited partner, even if the limited partner participates in the management and control of the limited partnership. This subsection (a) applies regardless of the dissolution of the partnership.

(b) Neither the failure of a limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs nor the failure of a limited partnership to maintain the information required under § 61-3-107 is a ground for imposing liability on a limited partner for a debt, obligation, or other liability of the partnership.

(c) Notwithstanding any provision in this chapter to the contrary, a limited partner, or in the case of a limited liability limited partnership, a general partner may elect to become liable for the obligations of the partnership by complying with § 67-4-2008(b).
61-3-304. Rights to information of limited partner and person dissociated as limited partner. [Effective January 1, 2018.]

(a) On ten-days’ demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership’s principal office. The limited partner need not have any particular purpose for seeking the information.

(b) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may inspect and copy information regarding the activities, affairs, financial condition, and other circumstances of the limited partnership as is just and reasonable if:

(1) The limited partner seeks the information for a purpose reasonably related to the partner’s interest as a limited partner;

(2) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(3) The information sought is directly connected to the limited partner’s purpose.

(c) Not later than ten (10) days after receiving a demand pursuant to subsection (b), the limited partnership shall inform in a record the limited partner that made the demand of:

(1) What information the partnership will provide in response to the demand, and when and where the partnership will provide the information; and

(2) The partnership’s reasons for declining, if the partnership declines to provide any demanded information.

(d) Whenever this chapter or a partnership agreement provides for a limited partner to vote on or give or withhold consent to a matter, before the vote is cast or consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information that is known to the partnership and is material to the limited partner’s decision.

(e) Subject to subsection (j), on ten-days’ demand made in a record received by a limited partnership, a person dissociated as a limited partner may have access to information to which the person was entitled while a limited partner if:

(1) The information pertains to the period during which the person was a limited partner;

(2) The person seeks the information in good faith; and

(3) The person satisfies the requirements imposed on a limited partner by subsection (b).

(f) A limited partnership shall respond to a demand made pursuant to subsection (e) in the manner provided in subsection (c).

(g) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(h) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under subsection (j) applies both to the agent or legal representative and to the limited partner or person dissociated as a limited partner.

(i) Subject to § 61-3-704, the rights under this section do not extend to a
person as transferee.

(j) In addition to any restriction or condition stated in its partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection (j), the partnership has the burden of proving reasonableness.

61-3-305. Limited duties of limited partners. [Effective January 1, 2018.]

(a) A limited partner shall discharge any duties to the partnership and the other partners under the partnership agreement and exercise any rights under this chapter or the partnership agreement consistently with the contractual obligation of good faith and fair dealing.

(b) Except as otherwise provided in subsection (a), a limited partner does not have any duty to the limited partnership or to any other partner solely by reason of acting as a limited partner.

(c) If a limited partner enters into a transaction with a limited partnership, the limited partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

61-3-306. Person erroneously believing self to be limited partner. [Effective January 1, 2018.]

(a) Except as otherwise provided in subsection (b), a person that makes an investment in a business enterprise and erroneously, but in good faith, believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(1) Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing; or

(2) Withdraws from future participation as an owner in the enterprise by signing and delivering to the secretary of state for filing a statement of negation under this section.

(b) A person that makes an investment described in subsection (a) is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the secretary of state files a statement of negation, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

(c) If a person makes a diligent effort in good faith to comply with subdivision (a)(1) and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing, the person has the right to withdraw from the enterprise pursuant to subdivision (a)(2) even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.
61-3-401. Becoming general partner. [Effective January 1, 2018.]

(a) Upon formation of a limited partnership, a person becomes a general partner as agreed among the persons that are to be the initial partners.
(b) After formation of a limited partnership, a person becomes a general partner:
   (1) As provided in the partnership agreement;
   (2) As the result of a transaction effective under part 11 of this chapter;
   (3) With the affirmative vote or consent of all the partners; or
   (4) As provided in § 61-3-801(a)(3)(B).
(c) A person may become a general partner without:
   (1) Acquiring a transferable interest; or
   (2) Making or being obligated to make a contribution to the partnership.

61-3-402. General partner agent of limited partnership. [Effective January 1, 2018.]

(a) Each general partner is an agent of the limited partnership for the purposes of the limited partnership’s activities and affairs. An act of a general partner, including the signing of a record in the partnership’s name, for apparently carrying on in the ordinary course of the partnership’s activities and affairs, or activities and affairs of the kind carried on by the partnership, binds the partnership, unless the general partner did not have authority to act for the partnership in the particular matter and the person with which the general partner was dealing knew or had notice that the general partner lacked authority.
(b) An act of a general partner that is not apparently for carrying on in the ordinary course of the limited partnership’s activities and affairs, or activities and affairs of the kind carried on by the partnership, binds the partnership only if the act was actually authorized by all the other partners.

61-3-403. Limited partnership liable for general partner’s actionable conduct. [Effective January 1, 2018.]

(a) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of the limited partnership’s activities and affairs or with the actual or apparent authority of the limited partnership.
(b) If, in the course of a limited partnership’s activities and affairs, or while acting with actual or apparent authority of the partnership, a general partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the partnership is liable for the loss.

61-3-404. General partner’s liability. [Effective January 1, 2018.]

(a) Except as otherwise provided in subsections (b) and (c), all general partners are liable jointly and severally for all debts, obligations, and other liabilities of the limited partnership unless otherwise agreed by the claimant or provided by law.
(b) A person that becomes a general partner is not personally liable for a debt, obligation, or other liability of the limited partnership incurred before the
person became a general partner.

(c) A debt, obligation, or other liability of a limited partnership incurred while the limited partnership is a limited liability limited partnership is solely the debt, obligation, or other liability of the limited liability limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability limited partnership solely by reason of being or acting as a general partner. This subsection (c) applies:

(1) Despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability limited partnership under § 61-3-406(b)(2); and

(2) Regardless of the dissolution of the partnership.

(d) The failure of a limited liability limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a general partner for a debt, obligation, or other liability of the partnership.

(e) An amendment of a certificate of limited partnership deleting a statement that the limited partnership is a limited liability limited partnership does not affect the limitation in this section on the liability of a general partner for a debt, obligation, or other liability of the limited partnership incurred before the amendment became effective.

61-3-405. Actions by and against partnership and partners. [Effective January 1, 2018.]

(a) To the extent not inconsistent with § 61-3-404, a general partner may be joined in an action against the limited partnership or named in a separate action.

(b) A judgment against a limited partnership is not, by itself, a judgment against a general partner. A judgment against a partnership must not be satisfied from a general partner’s assets unless there is also a judgment against the general partner.

(c) A judgment creditor of a general partner shall not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under § 61-3-404; and

(1) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The partnership is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court’s equitable powers; or

(5) Liability is imposed on the general partner by law or contract independent of the existence of the partnership.
61-3-406. Management rights of general partner. [Effective January 1, 2018.]

(a) Each general partner has equal rights in the management and conduct of the limited partnership's activities and affairs. Except as otherwise provided in this chapter, any matter relating to the activities and affairs of the partnership is decided exclusively by the general partner or, if there is more than one (1) general partner, by a majority of the general partners.

(b) The affirmative vote or consent of all the partners is required to:

1. Amend the partnership agreement;

2. Amend the certificate of limited partnership to add or delete a statement that the limited partnership is a limited liability limited partnership; and

3. Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities and affairs.

(c) A limited partnership shall reimburse a general partner for an advance to the partnership beyond the amount of capital the general partner agreed to contribute.

(d) A payment or advance made by a general partner which gives rise to a limited partnership obligation under subsection (c) or § 61-3-408(a) constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.

(e) A general partner is not entitled to remuneration for services performed for the limited partnership.

61-3-407. Rights to information of general partner and person disso-ociated as general partner. [Effective January 1, 2018.]

(a) A general partner may inspect and copy required information during regular business hours in the limited partnership's principal office, without having any particular purpose for seeking the information.

(b) On reasonable notice, a general partner may inspect and copy during regular business hours, at a reasonable location specified by the limited partnership, any record maintained by the partnership regarding the partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the general partner's rights and duties under the partnership agreement or this chapter.

(c) A limited partnership shall furnish to each general partner:

1. Without demand, any information concerning the partnership's activities, affairs, financial condition, and other circumstances that the partnership knows and is material to the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter, except to the extent the partnership can establish that the partnership reasonably believes the general partner already knows the information; and

2. On demand, any other information concerning the partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(d) The duty to furnish information under subsection (c) also applies to each general partner to the extent the general partner knows any of the information
described in subsection (b).

(e) Subject to subsection (j), on ten-days’ demand made in a record received by a limited partnership, a person dissociated as a general partner may have access to the information and records described in subsections (a) and (b) at the locations specified in those subsections if:

(1) The information or record pertains to the period during which the person was a general partner;

(2) The person seeks the information or record in good faith; and

(3) The person satisfies the requirements imposed on a limited partner by § 61-3-304(b).

(f) A limited partnership shall respond to a demand made pursuant to subsection (e) in the manner provided in § 61-3-304(c).

(g) A limited partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under subsection (j) applies both to the agent or legal representative and to the general partner or person dissociated as a general partner.

(i) The rights under this section do not extend to a person as transferee, but if:

(1) A general partner dies, § 61-3-704 applies; and

(2) An individual dissociates as a general partner under § 61-3-603(6)(B) or (C), the legal representative of the individual may exercise the rights under subsection (c) of a person dissociated as a general partner.

(j) In addition to any restriction or condition stated in the partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection (j), the partnership has the burden of proving reasonableness.

61-3-408. Reimbursement — Indemnification — Advancement — Insurance. [Effective January 1, 2018.]

(a) A limited partnership shall reimburse a general partner for any payment made by the general partner in the course of the general partner’s activities on behalf of the partnership, if the general partner complied with §§ 61-3-406, 61-3-409, and 61-3-504 in making the payment.

(b) A limited partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person’s former or present capacity as a general partner, if the claim, demand, debt, obligation, or other liability does not arise from the person’s breach of § 61-3-406, § 61-3-409, or § 61-3-504.

(c) In the ordinary course of its activities and affairs, a limited partnership may advance reasonable expenses, including attorney’s fees and costs, incurred
by a person in connection with a claim or demand against the person by reason
of the person’s former or present capacity as a general partner, if the person
promises to repay the partnership if the person ultimately is determined not to
be entitled to be indemnified under subsection (b).

(d) A limited partnership may purchase and maintain insurance on behalf of
a general partner against liability asserted against or incurred by the general
partner in that capacity or arising from that status even if, under § 61-3-104,
the partnership agreement could not eliminate or limit the person’s liability to
the partnership for the conduct giving rise to the liability.

61-3-409. Standards of conduct for general partners. [Effective January
1, 2018.]

(a) A general partner owes to the limited partnership and, subject to
§ 61-3-901, the other partners, only the duties of loyalty and care stated in
subsections (b) and (c).

(b) The fiduciary duty of loyalty of a general partner includes the duties:

(1) To account to the limited partnership and hold as trustee for the limited
partnership any property, profit, or benefit derived by the general partner:

(A) In the conduct or winding up of the partnership’s activities and
affairs;

(B) From a use by the general partner of the partnership’s property; or

(C) From the appropriation of a partnership opportunity;

(2) To refrain from dealing with the partnership in the conduct or winding
up of the partnership’s activities and affairs as or on behalf of a person having
an interest adverse to the partnership; and

(3) To refrain from competing with the partnership in the conduct or
winding up of the partnership’s activities and affairs.

(c) The duty of care of a general partner in the conduct or winding up of the
limited partnership’s activities and affairs is to refrain from engaging in grossly
negligent or reckless conduct, willful or intentional misconduct, or knowing
violation of law.

(d) A general partner shall discharge the duties and obligations under this
chapter or under the partnership agreement and exercise any rights consistently
with the contractual obligation of good faith and fair dealing.

(e) A general partner does not violate a duty or obligation under this chapter
or under the partnership agreement solely because the general partner’s conduct
furthers the general partner’s own interest.

(f) All the partners of a limited partnership may authorize or ratify, after full
disclosure of all material facts, a specific act or transaction by a general partner
that otherwise would violate the duty of loyalty.

(g) It is a defense to a claim under subdivision (b)(2) and any comparable
claim in equity or at common law that the transaction was fair to the limited
partnership.

(h) If, as permitted by subsection (f) or the partnership agreement, a general
partner enters into a transaction with the limited partnership that would
otherwise be prohibited by subdivision (b)(2), the general partner’s rights and
obligations arising from the transaction are the same as those of a person that
is not a general partner.
61-3-501. Form of contribution and acceptance. [Effective January 1, 2018.]

(a) A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited partnership or an agreement to transfer property to, perform services for, or provide another benefit to the partnership.

(b) Neither a purported contribution nor an offer of consideration to make a contribution must be treated as a contribution to a limited partnership until:

1. The contribution is accepted by the affirmative vote or consent of all general partners; and

2. The amount and value of the contribution are recorded in the required information of the limited partnership.

61-3-502. Liability for contribution. [Effective January 1, 2018.]

(a) A person's obligation to make a contribution to a limited partnership is not excused by the person's death, disability, termination, or other inability to perform personally.

(b) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited partnership to contribute money equal to the value, as stated in the required information, of the part of the contribution that has not been made. The foregoing option is in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against the partner under the partnership agreement or applicable law.

(c) A conditional obligation of a partner to make a contribution or return money or other property to a limited partnership shall not be enforced unless the conditions to the obligation have been satisfied or waived as to or by the partner. Conditional obligations include contributions payable upon a discretionary call of a limited partnership or a general partner prior to the time the call occurs.

(d) The obligation of a person to make a contribution may be compromised only by the affirmative vote or consent of all the partners. If a creditor of a limited partnership extends credit or otherwise acts in reliance on an obligation described in subsection (a) without knowledge or notice of a compromise under this subsection (d), the creditor may enforce the obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution.

(e) A partnership agreement may provide that the interest of any partner who fails to make any contribution that the partner is obligated to make is subject to specified penalties for, or specified consequences of, the failure. The penalty or consequence may take the form of:

1. Reducing or eliminating the defaulting partner's proportionate interest in the limited partnership;

2. Subordinating the defaulting partner's partnership interest to that of non-defaulting partners;

3. A forced sale of the defaulting partner's partnership interest;

4. Forfeiture of the defaulting partner's partnership interest;

5. The lending by other partners of the amount necessary to meet the defaulting partner's commitment;

6. A fixing of the value of the defaulting partner's partnership interest by appraisal or by formula and redemption or sale of the defaulting partner's...
partnership interest at such value; or
(7) Other penalty or consequence.

61-3-503 Sharing of and right to distributions before dissolution. [Effective January 1, 2018.]

(a) Any distribution made by a limited partnership before its dissolution and winding up must be shared among the partners on the basis of the value, as stated in the required information when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner, except to the extent necessary to comply with a transfer effective under § 61-3-702 or charging order in effect under § 61-3-703.

(b) A person has a right to a distribution before the dissolution and winding up of a limited partnership only if the partnership decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

(c) A person does not have a right to demand or receive a distribution from a limited partnership in any form other than money. Except as otherwise provided in § 61-3-810(f), a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the partnership's obligation to make a distribution is subject to offset for any amount owed to the partnership by the partner or a person dissociated as a partner on whose account the distribution is made.

61-3-504. Limitations on distributions. [Effective January 1, 2018.]

(a) A limited partnership may not make a distribution, including a distribution under § 61-3-810, if after the distribution:

(1) The partnership would not be able to pay its debts as they become due in the ordinary course of the partnership's activities and affairs; or

(2) The partnership's total assets would be less than the sum of its total liabilities, other than liabilities for which the recourse of creditors is limited to specified property, plus the amount that would be needed, if the partnership were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of partners and transferees whose preferential rights are superior to the rights of persons receiving the distribution; provided, however, that the value of property that is subject to a liability for which the recourse of creditors is limited must be included in the total assets of the partnership, only to the extent the value of the property exceeds the liability.

(b) A limited partnership may base a determination that a distribution is not prohibited under subsection (a) on:

(1) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(2) A fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsection (e), the effect of a distribution under subsection (a) is measured:
(1) In the case of a distribution that consists of a redemption or other purchase by the limited partnership of a transferrable interest, or of a transfer to a partner in return for relinquishment of any of that person’s rights as a partner, as of the earlier of:
   (A) The date money or other property is transferred or debt is incurred by the limited partnership; or
   (B) The date the person entitled to the distribution ceases to own the interest or right being acquired by the partnership in return for the distribution;
   (2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
   (3) In all other cases, as of the date:
      (A) The distribution is authorized, if the payment occurs not later than one hundred twenty (120) days after that date; or
      (B) The payment is made, if the payment occurs more than one hundred twenty (120) days after the distribution is authorized.

(d) A limited partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the partnership's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(e) A limited partnership’s indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (a) if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(f) In measuring the effect of a distribution under § 61-3-810, the liabilities of a dissolved limited partnership do not include any claim that has been disposed of under § 61-3-806, § 61-3-807, or § 61-3-808.

61-3-505. Liability for improper distributions. [Effective January 1, 2018.]

(a) If a general partner consents to a distribution made in violation of § 61-3-504 and in consenting to the distribution fails to comply with § 61-3-409, the general partner is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of § 61-3-504.

(b) A person that receives a distribution knowing that the distribution violated § 61-3-504 is personally liable to the limited partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under § 61-3-504.

(c) A general partner against which an action is commenced because the general partner is liable under subsection (a) may:
   (1) Implead any other person that is liable under subsection (a) and seek to enforce a right of contribution from the person; and
   (2) Implead any person that received a distribution in violation of subsection (b) and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection (b).

(d) An action under this section is barred unless commenced not later than two (2) years after the distribution.
61-3-601. Dissociation as limited partner. [Effective January 1, 2018.]

(a) A person does not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

(b) A person is dissociated as a limited partner when:

   (1) The limited partnership knows or has notice of the person's express will to withdraw as a limited partner, but, if the person has specified a withdrawal date later than the date the partnership knew or had notice, on that later date;

   (2) An event stated in the partnership agreement as causing the person's dissociation as a limited partner occurs;

   (3) The person is expelled as a limited partner pursuant to the partnership agreement;

   (4) The person is expelled as a limited partner by the affirmative vote or consent of all the other partners if:

       (A) It is unlawful to carry on the limited partnership's activities and affairs with the person as a limited partner;

       (B) There has been a transfer of all the person's transferable interest in the limited partnership, other than:

           (i) A transfer for security purposes; or
           (ii) A charging order in effect under § 61-3-703;

       (C) The person is an entity and:

           (i) The limited partnership notifies the person that the person will be expelled as a limited partner because the person has filed a statement of dissolution or the equivalent, the person has been administratively dissolved, the person's charter or the equivalent has been revoked, or the person's right to conduct business has been suspended by the person's jurisdiction of formation; and
           (ii) Not later than ninety (90) days after the notification, the statement of dissolution or the equivalent has not been withdrawn, rescinded, or revoked, the person has not been reinstated, or the person's charter or the equivalent or right to conduct business has not been reinstated; or

       (D) The person is an unincorporated entity that has been dissolved and whose activities and affairs are being wound up;

   (5) On application by the limited partnership or a partner in a direct action under § 61-3-901, the person is expelled as a limited partner by judicial order because the person:

       (A) Has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership's activities and affairs;

       (B) Has committed willfully or persistently, or is committing willfully and persistently, a material breach of the partnership agreement or the contractual obligation of good faith and fair dealing under § 61-3-305(a); or

       (C) Has engaged or is engaging in conduct relating to the limited partnership's activities and affairs that makes it not reasonably practicable to carry on the activities and affairs with the person as a limited partner;

   (6) In the case of an individual, the individual dies;

   (7) In the case of a person that is a testamentary or inter vivos trust or is acting as a limited partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited partnership is distributed;
(8) In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, the estate’s entire transferable interest in the limited partnership is distributed;

(9) In the case of a person that is not an individual, the existence of the person terminates;

(10) The limited partnership participates in a merger under part 11 of this chapter; and
    (A) The partnership is not the surviving entity; or
    (B) Otherwise as a result of the merger, the person ceases to be a limited partner;

(11) The limited partnership participates in a conversion under part 11 of this chapter; or

(12) The limited partnership dissolves and completes winding up.

61-3-602. Effect of dissociation as limited partner. [Effective January 1, 2018.]

(a) If a person is dissociated as a limited partner:
    (1) Subject to § 61-3-704, the person does not have further rights as a limited partner;
    (2) The person’s contractual obligation of good faith and fair dealing as a limited partner under § 61-3-305(a) ends with regard to matters arising and events occurring after the person’s dissociation; and
    (3) Subject to § 61-3-704 and part 11 of this chapter, any transferable interest owned by the person in the person’s capacity as a limited partner immediately before dissociation is owned by the person solely as a transferee.

(b) A person’s dissociation as a limited partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a limited partner.

61-3-603. Dissociation as general partner. [Effective January 1, 2018.]

A person is dissociated as a general partner when:

(1) The limited partnership knows or has notice of the person’s express will to withdraw as a general partner, but, if the person has specified a withdrawal date later than the date the partnership knew or had notice, on that later date;

(2) An event stated in the partnership agreement as causing the person’s dissociation as a general partner occurs;

(3) The person is expelled as a general partner pursuant to the partnership agreement;

(4) The person is expelled as a general partner by the affirmative vote or consent of all the other partners if:
    (A) It is unlawful to carry on the limited partnership’s activities and affairs with the person as a general partner;
    (B) There has been a transfer of all the person’s transferable interest in the partnership, other than:
        (i) A transfer for security purposes; or
        (ii) A charging order in effect under § 61-3-703;
    (C) The person is an entity and:
        (i) The partnership notifies the person that the person will be expelled as a general partner because the person has filed a statement of
dissolution or the equivalent, the person has been administratively dissolved, the person’s charter or the equivalent has been revoked, or the person’s right to conduct business has been suspended by the person’s jurisdiction of formation; and

(ii) Not later than ninety (90) days after the notification, the statement of dissolution or the equivalent has not been withdrawn, rescinded, or revoked, the person has not been reinstated, or the person’s charter or the equivalent or right to conduct business has not been reinstated; or

(D) The person is an unincorporated entity that has been dissolved and whose activities and affairs are being wound up;

(5) On application by the limited partnership or a partner in a direct action under § 61-3-901, the person is expelled as a general partner by judicial order because the person:

(A) Has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership’s activities and affairs;

(B) Has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or a duty or obligation under § 61-3-409; or

(C) Has engaged or is engaging in conduct relating to the limited partnership’s activities and affairs which makes it not reasonably practicable to carry on the activities and affairs of the limited partnership with the person as a general partner;

(6) In the case of an individual:

(A) The individual dies;

(B) A guardian or general conservator for the individual is appointed;

(C) A court orders that the individual has otherwise become incapable of performing the individual’s duties as a general partner under this chapter or the partnership agreement;

(7) The person:

(A) Becomes a debtor in bankruptcy;

(B) Executes an assignment for the benefit of creditors;

(C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person’s property;

(8) In the case of a person that is a testamentary or inter vivos trust or is acting as a general partner by virtue of being a trustee of the trust, the trust’s entire transferable interest in the limited partnership is distributed;

(9) In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, the estate’s entire transferable interest in the limited partnership is distributed;

(10) In the case of a person that is not an individual, the existence of the person terminates;

(11) The limited partnership participates in a merger under part 11 of this chapter; and

(A) The partnership is not the surviving entity; or

(B) Otherwise as a result of the merger, the person ceases to be a general partner;

(12) The limited partnership participates in a conversion under part 11 of this chapter; or

(13) The limited partnership dissolves and completes winding up.
61-3-604. Power to dissociate as general partner — Wrongful dissociation. [Effective January 1, 2018.]

(a) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by withdrawing as a general partner by express will under § 61-3-603(1).

(b) A person’s dissociation as a general partner is wrongful only if the dissociation:
   (1) Is in breach of an express provision of the partnership agreement; or
   (2) Occurs before the completion of the winding up of the limited partnership, and:
      (A) The person withdraws as a general partner by express will;
      (B) The person is expelled as a general partner by judicial order under § 61-3-603(5);
      (C) The person is dissociated as a general partner under § 61-3-603(7); or
      (D) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a general partner because the person willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to § 61-3-901, to the other partners for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the general partner to the partnership or the other partners.

61-3-605. Effect of dissociation as general partner. [Effective January 1, 2018.]

(a) If a person is dissociated as a general partner:
   (1) The person’s right to participate as a general partner in the management and conduct of the limited partnership’s activities and affairs terminates;
   (2) The person’s duties and obligations as a general partner under § 61-3-409 end with regard to matters arising and events occurring after the person’s dissociation;
   (3) The person may sign and deliver to the secretary of state for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated as a general partner; and
   (4) Subject to § 61-3-704 and part 11 of this chapter, any transferable interest owned by the person in the person’s capacity as a general partner immediately before dissociation is owned by the person solely as a transferee.
(b) A person’s dissociation as a general partner does not, of itself, discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners that the person incurred while a general partner.

61-3-606. Power to bind and liability of person dissociated as general partner. [Effective January 1, 2018.]

(a) After a person is dissociated as a general partner and before the limited partnership is merged out of existence or converted under part 11 of this chapter,
or dissolved, the partnership is bound by an act of the person only if:

(1) The act would have bound the partnership under § 61-3-402 before the
dissociation; and

(2) At the time the other party enters into the transaction:

(A) Less than one (1) year has passed since the dissociation; and

(B) The other party does not know or have notice of the dissociation and
reasonably believes that the person is a general partner.

(b) If a limited partnership is bound under subsection (a), the person
dissociated as a general partner that caused the partnership to be bound is
liable:

(1) To the partnership for any damage caused to the partnership arising
from the obligation incurred under subsection (a); and

(2) If a general partner or another person dissociated as a general partner
is liable for the obligation, to the general partner or other person for any
damage caused to the general partner or other person arising from the
liability.

61-3-607. Liability of person dissociated as general partner to other
person. [Effective January 1, 2018.]

(a) A person’s dissociation as a general partner does not, of itself, discharge
the person’s liability as a general partner for a debt, obligation, or other liability
of the limited partnership incurred before dissociation. Except as otherwise
provided in subsections (b) and (c), the person is not liable for a partnership
obligation incurred after dissociation.

(b) A person whose dissociation as a general partner results in a dissolution
and winding up of the limited partnership’s activities and affairs is liable on an
obligation incurred by the partnership under § 61-3-805 to the same extent as
a general partner under § 61-3-404.

(c) A person that is dissociated as a general partner without the dissociation
resulting in a dissolution and winding up of the limited partnership’s activities
and affairs is liable on a transaction entered into by the limited partnership
after the dissociation only if:

(1) A general partner would be liable on the transaction; and

(2) At the time the other party enters into the transaction:

(A) Less than one (1) year has passed since the dissociation; and

(B) The other party does not have knowledge or notice of the dissociation
and reasonably believes that the person is a general partner.

(d) By agreement with a creditor of a limited partnership and the limited
partnership, a person dissociated as a general partner may be released from
liability for a debt, obligation, or other liability of the partnership.

(e) A person dissociated as a general partner is released from liability for a
debt, obligation, or other liability of the limited partnership if the partnership’s
creditor, with knowledge or notice of the person’s dissociation as a general
partner but without the person’s consent, agrees to a material alteration in the
nature or time of payment of the debt, obligation, or other liability.

61-3-701. Nature of transferable interest. [Effective January 1, 2018.]

A transferable interest is personal property.
61-3-702. Transfer of transferable interest. [Effective January 1, 2018.]

(a) A transfer, in whole or in part, of a transferable interest:

(1) Is permissible;

(2) Does not, by itself, cause a person's dissociation as a partner or a dissolution and winding up of the limited partnership's activities and affairs; and

(3) Subject to § 61-3-704, does not entitle the transferee to:

(A) Participate in the management or conduct of the limited partnership's activities and affairs; or

(B) Except as otherwise provided in subsection (c), have access to required information, records, or other information concerning the limited partnership's activities and affairs.

(b) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(c) In a dissolution and winding up of a limited partnership, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.

(d) A transferable interest may be evidenced by a certificate of the interest issued by a limited partnership in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(e) A limited partnership need not give effect to a transferee's rights under this section until the partnership knows or has notice of the transfer.

(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the partnership agreement is ineffective if the intended transferee has knowledge or notice of the restriction at the time of transfer.

(g) Except as otherwise provided in §§ 61-3-601(b)(4)(B) and 61-3-603(4)(B), if a general or limited partner transfers a transferable interest, the transferor retains the rights of a general or limited partner other than the transferable interest transferred and retains all the duties and obligations of a general or limited partner.

(h) If a general or limited partner transfers a transferable interest to a person that becomes a general or limited partner with respect to the transferred interest, the transferee is liable for the transferor's obligations under §§ 61-3-502 and 61-3-505 known to the transferee when the transferee becomes a partner.

61-3-703. Charging order. [Effective January 1, 2018.]

(a) On application by a judgment creditor of a partner or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a), the court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) The partner or transferee whose transferable interest is subject to a
charging order under subsection (a) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(d) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

(e) This section provides the exclusive remedy by which a person, other than the partnership itself, seeking in the capacity of a judgment creditor to enforce a judgment against a partner or transferee may satisfy the judgment from the judgment debtor's transferable interest.

61-3-704. Power of legal representative of deceased partner. [Effective January 1, 2018.]

If a partner dies, the deceased partner's legal representative may exercise:

1. The rights of a transferee provided in § 61-3-702(c); and

2. For the purposes of settling the estate, the rights of a current limited partner under § 61-3-304.

61-3-801. Events causing dissolution. [Effective January 1, 2018.]

(a) A limited partnership is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

1. An event or circumstance that the partnership agreement states causes dissolution;

2. The affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;

3. After the dissociation of a person as a general partner:

   A. If the limited partnership has at least one (1) remaining general partner, by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or

   B. If the limited partnership does not have a remaining general partner, the passage of ninety (90) days after the dissociation, unless before the end of the period:

      i. Consent to continue the limited partnership's activities and affairs and admit at least one (1) general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

      ii. At least one (1) person is admitted as a general partner in accordance with the consent;

4. The passage of ninety (90) consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the personal representative of the last remaining limited partner and all of the general partners agree, in writing or by vote, to continue the business of the limited partnership and to the admission of the personal representative of the limited partner or its nominee or designee to the limited partnership as a limited partner, effective as of the occurrence of the event that caused the last remaining limited partner to cease to be a limited partner. However, a partnership agreement may provide that the general partners or the personal representative of the last remaining limited partner is obligated to agree in writing to continue the business of the limited partnership and to the
administration of the personal representative of the limited partner or its
nominee or designee to the limited partnership as a limited partner, effective
as of the occurrence of the event that caused the last limited partner to cease
to be a limited partner;
(5) The passage of ninety (90) consecutive days during which the partner-
ship has only one (1) partner, unless before the end of the period:
(A) The last remaining partner admits at least one (1) person as a
partner;
(B) If the previously sole remaining partner is only a general partner, the
sole remaining general partner admits at least one (1) person as a limited
partner; and
(C) If the previously sole remaining partner is only a limited partner, the
sole remaining limited partner admits at least one (1) person as a general
partner;
(6) On application by a partner, the entry by the appropriate court of an
order dissolving the partnership on the grounds that:
(A) The conduct of all or substantially all of the limited partnership’s
activities and affairs is unlawful; or
(B) It is not reasonably practicable to carry on the limited partnership’s
activities and affairs in conformity with the certificate of limited partner-
ship and partnership agreement; or
(7) The signing and filing of a statement of administrative dissolution by
the secretary of state under § 61-3-811.

(b) If an event occurs that imposes a deadline on a limited partnership under
subsection (a) and before the limited partnership has met the requirements of
the deadline, another event occurs that imposes a different deadline on the
partnership under subsection (a):
(1) The occurrence of the second event does not affect the deadline caused
by the first event; and
(2) The limited partnership’s meeting of the requirements of the first
deadline does not extend the second deadline.

61-3-802. Winding Up. [Effective January 1, 2018.]

(a) A dissolved limited partnership shall wind up its activities and affairs
and, except as otherwise provided in § 61-3-803, the partnership continues after
dissolution only for the purpose of winding up.
(b) In winding up its activities and affairs, the limited partnership:
(1) Shall discharge the limited partnership’s debts, obligations, and other
liabilities, settle and close the limited partnership’s activities and affairs, and
marshal and distribute the assets of the limited partnership; and
(2) May:
(A) Amend its certificate of limited partnership to state that the partner-
ship is dissolved;
(B) Preserve the limited partnership’s activities, affairs, and property as
a going concern for a reasonable time;
(C) Prosecute and defend actions and proceedings, whether civil, criminal,
or administrative;
(D) Transfer the limited partnership’s property;
(E) Settle disputes by mediation or arbitration;
(F) Deliver to the secretary of state for filing a statement of termination
stating the name of the limited partnership and that the limited partner-
ship is terminated; and

(G) Perform other acts necessary or appropriate to the winding up.

(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership’s activities and affairs may be appointed by the affirmative vote or consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective. A person appointed under this subsection (c):

(1) Has the powers of a general partner under § 61-3-804 but is not liable for the debts, obligations, and other liabilities of the limited partnership solely by reason of having or exercising those powers or otherwise acting to wind up the dissolved limited partnership’s activities and affairs; and

(2) Shall promptly deliver to the secretary of state for filing an amendment to the limited partnership’s certificate of limited partnership stating:

(A) That the limited partnership does not have a general partner;

(B) The name and street address, including the zip code, of the person appointed, and a mailing address such as a post office box if the United States postal service does not deliver mail to the street address of the person; and

(C) That the person has been appointed pursuant to this subsection (c) to wind up the limited partnership.

(d) On the application of a partner, the appropriate court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership’s activities and affairs, if:

(1) The limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (c); or

(2) The applicant establishes other good cause.

61-3-803. Rescinding dissolution. [Effective January 1, 2018.]

(a) A limited partnership may rescind its dissolution, unless a statement of termination applicable to the partnership has become effective, the court of record has entered an order under § 61-3-801(a)(6) dissolving the partnership, or the secretary of state has dissolved the partnership under § 61-3-811.

(b) Rescinding dissolution under this section requires:

(1) The affirmative vote or consent of each partner; and

(2) If the limited partnership has delivered to the secretary of state for filing an amendment to the certificate of limited partnership stating that the limited partnership is dissolved and:

(A) The amendment has not become effective, delivery to the secretary of state for filing of a statement of withdrawal applicable to the amendment; or

(B) The amendment has become effective, delivery to the secretary of state for filing of an amendment to the certificate of limited partnership stating that dissolution has been rescinded under this section.

(c) If a limited partnership rescinds its dissolution:

(1) The limited partnership resumes carrying on the limited partnership’s activities and affairs as if dissolution had never occurred;

(2) Subject to subdivision (c)(3), any liability incurred by the limited partnership after the dissolution and before the rescission has become
effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission shall not be adversely affected.

61-3-804. Power to bind partnership after dissolution. [Effective January 1, 2018.]

(a) A limited partnership is bound by a general partner's act after dissolution that:

(1) Is appropriate for winding up the limited partnership's activities and affairs; or

(2) Would have bound the partnership under § 61-3-402 before dissolution if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.

(b) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

(1) At the time the other party enters into the transaction:
   (A) Less than one (1) year has passed since the dissociation; and
   (B) The other party does not know or have notice of the dissociation and reasonably believes that the person is a general partner; and

(2) The act:
   (A) Is appropriate for winding up the limited partnership's activities and affairs; or
   (B) Would have bound the limited partnership under § 61-3-402 before dissolution and at the time the other party enters into the transaction the other party does not know or have notice of the dissolution.

61-3-805. Liability after dissolution of general partner and person dissociated as general partner. [Effective January 1, 2018.]

(a) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under § 61-3-804(a) by an act that is not appropriate for winding up the limited partnership's activities and affairs, the general partner is liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under § 61-3-804(b), the person is liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the obligation.
61-3-806. Known claims against dissolved limited partnership.  
[Effective January 1, 2018.]

(a) A dissolved limited partnership may give notice of a known claim under subsection (b), which has the effect provided in subsection (c).

(b) The dissolved limited partnership shall notify the limited partnership's known claimants in writing of the dissolution at any time after the dissolution's effective date. The written notice must:

(1) Describe information that must be included in a claim;
(2) State whether the claim is admitted, or not admitted, and if admitted:
   (A) The amount that is admitted, which may be as of a given date; and
   (B) Any interest obligation if fixed by an instrument of indebtedness;
(3) Provide a mailing address, including zip code, where a claim may be sent;
(4) State the deadline, which may not be fewer than four (4) months from the effective date of the written notice, by which the dissolved limited partnership must receive the claim; and
(5) State that, except to the extent that any claim is admitted, the claim is barred if written notice of the claim is not received by the deadline.

(c) A claim against the dissolved limited partnership is barred to the extent that it is not admitted:

(1) If the dissolved limited partnership delivered written notice to the claimant in accordance with subsection (b) and the claimant does not deliver a written notice of the claim to the dissolved limited partnership by the deadline; or
(2) If the dissolved limited partnership delivered written notice to the claimant that the claimant's claim is rejected, in whole or in part, and the claimant does not commence a proceeding to enforce the claim within three (3) months from the effective date of the rejection notice.

(d) For purposes of this section, “claim” does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(e) For purposes of this section, written notice, if in a comprehensible form, is effective at the earliest of the following:

(1) When received;
(2) Five (5) days after its deposit in the United States mail, if mailed correctly addressed and with first class postage affixed;
(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or
(4) Twenty (20) days after its deposit in the United States mail, as evidenced by the postmark if mailed correctly addressed, and with other than first class, registered or certified postage affixed.

61-3-807. Other claims against dissolved limited partnership.  
[Effective January 1, 2018.]

(a) A dissolved limited partnership may publish notice of the limited partnership’s dissolution and request persons having claims against the partnership to present them in accordance with the notice.

(b) A notice under subsection (a) must:

(1) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited partnership’s principal
office is located or, if the principal office is not located in this state, in the county in which the office of the partnership’s registered agent is or was last located;

(2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address, including zip code, to which the claim is to be sent;

(3) State that a claim against the partnership is barred unless an action to enforce the claim is commenced not later than two (2) years after publication of the notice; and

(4) Unless the partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership also bars any corresponding claim against any general partner or person dissociated as a general partner that is based on § 61-3-404.

(c) If a dissolved limited partnership publishes a notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the partnership not later than two (2) years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under § 61-3-806;

(2) A claimant whose claim was timely sent to the limited partnership but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

(d) A claim not barred under this section or § 61-3-806 may be enforced:

(1) Against the dissolved limited partnership, to the extent of the limited partnership’s undistributed assets;

(2) Except as otherwise provided in § 61-3-808, if assets of the limited partnership have been distributed after dissolution, against a partner or transferee to the extent of that person’s proportionate share of the claim or of the limited partnership’s assets distributed to the partner or transferee after dissolution, whichever is less, but a person’s total liability for all claims under this subdivision (d)(2) must not exceed the total amount of assets distributed to the person after dissolution; and

(3) Against any person liable on the claim under §§ 61-3-404 and 61-3-607.

61-3-808. Court proceedings. [Effective January 1, 2018.]

(a) A dissolved limited partnership that has published a notice under § 61-3-807 may file an application with the chancery court in the county where the limited partnership’s principal office is located or, if the principal office is not located in this state, where the office of the limited partnership’s registered agent is or was last located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the limited partnership, or are based on an event occurring after the date of dissolution but which, based on the facts known to the limited partnership, are reasonably expected to arise after the date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under § 61-3-807.

(b) Not later than ten (10) days after the filing of an application under subsection (a), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the limited
partnership.

(c) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.

(d) A dissolved limited partnership that provides security in the amount and form ordered by the court under subsection (a) satisfies the limited partnership's obligations with respect to claims that are contingent, have not been made known to the limited partnership, or are based on an event occurring after the date of dissolution, and such claims must not be enforced against a partner or transferee on account of assets received in liquidation.

61-3-809. Liability of general partner and person dissociated as general partner when claim against limited partnership barred. [Effective January 1, 2018.]

If a claim against a dissolved limited partnership is barred under § 61-3-806, § 61-3-807, or § 61-3-808, any corresponding claim under § 61-3-404 or § 61-3-607 is also barred.

61-3-810. Disposition of assets in winding up — When contributions required. [Effective January 1, 2018.]

(a) In winding up its activities and affairs, a limited partnership shall apply the limited partnership's assets, including the contributions required by this section, to discharge the limited partnership's obligations to creditors, including partners that are creditors.

(b) After a limited partnership complies with subsection (a), any surplus must be distributed in the following order, subject to any charging order in effect under § 61-3-703:

(1) To each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and

(2) Among persons owning transferable interests in proportion to their respective rights to share in distributions immediately before the dissolution of the limited partnership.

(c) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (a), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following applies:

(1) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under § 61-3-607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of a general partner in effect for each of those persons when the obligation was incurred;

(2) If a person does not contribute the full amount required under subdivision (c)(1) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by subdivision (c)(1) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those
other persons is in proportion to the right to receive distributions in the
capacity of a general partner in effect for each of those other persons when the
obligation was incurred; and

(3) If a person does not make the additional contribution required by
subdivision (c)(2), further additional contributions are determined and due
in the same manner as provided in subdivision (c)(2).

(d) A person that makes an additional contribution under subdivision (c)(2)
or (3) may recover from any person whose failure to contribute under subdivi-
sion (c)(1) or (2) necessitated the additional contribution. A person shall not
recover under this subsection (d) more than the amount additionally contrib-
uted. A person’s liability under this subsection (d) must not exceed the amount
the person failed to contribute.

(e) If a limited partnership does not have sufficient surplus to comply with
subdivision (b)(1), any surplus must be distributed among the owners of
transferable interests in proportion to the value of the respective unreturned
contributions.

(f) All distributions made under subsections (b) and (c) must be paid in
money.

61-3-811. Administrative dissolution. [Effective January 1, 2018.]

(a) The secretary of state may commence a proceeding under subsection (b) to
dissolve a limited partnership administratively if:

(1) The limited partnership fails to pay any fee, tax, interest, or penalty
required to be paid to the secretary of state;

(2) The limited partnership fails to deliver an annual report to the
secretary of state not later than two (2) months after the report is due;

(3) The limited partnership is without a registered agent or registered office
in this state for two (2) months or more;

(4) The limited partnership does not notify the secretary of state within two
(2) months that the limited partnership’s registered agent or registered office
has been changed, that the limited partnership’s registered agent has
resigned, or that the limited partnership’s registered office has been
discontinued;

(5) The limited partnership submits to the secretary of state a check, bank
draft, money order, or other such instrument, for payment of any fee and the
instrument is dishonored upon presentation for payment;

(6) A general or limited partner or other representative of a limited
partnership signed a document the person knew was false in any material
respect, with the intent that the document be filed with the secretary of state;
or

(7) The name of the limited partnership in any document filed under this
chapter fails to comply with § 61-3-112.

(b) If the secretary of state determines that one (1) or more grounds exist for
administratively dissolving a limited partnership, the secretary of state must
serve the partnership with notice in a record of the secretary of state’s
determination. The record may be sent by first class mail.

(c) If a limited partnership, not later than two (2) months after service of the
notice under subsection (b), does not cure or demonstrate to the satisfaction of
the secretary of state the nonexistence of each ground determined by the
secretary of state, the secretary of state must administratively dissolve the
partnership by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The secretary of state shall file the statement and serve a copy on the partnership pursuant to § 61-3-119, except that the statement of administrative dissolution may be sent by first class mail.

(d) A limited partnership that is administratively dissolved continues in existence as an entity but may not carry on any activities except as necessary to wind up the limited partnership’s activities and affairs and liquidate its assets under §§ 61-3-802, 61-3-806, 61-3-807, 61-3-808, and 61-3-810, or to apply for reinstatement under § 61-3-812.

(e) The administrative dissolution of a limited partnership does not terminate the authority of the limited partnership’s registered agent.

61-3-812. Reinstatement. [Effective January 1, 2018.]

(a) A limited partnership that is administratively dissolved under § 61-3-811 may apply to the secretary of state for reinstatement following the administrative dissolution. The application must:

1. Be accompanied by a confirmation of good standing relative to the limited partnership;
2. State the name of the limited partnership at the time of the limited partnership’s administrative dissolution;
3. State a name for the limited partnership that satisfies § 61-3-112; and
4. State that the grounds for dissolution did not exist or have been eliminated.

(b) If the secretary of state determines that the application is accompanied by the confirmation of good standing and contains the information required by subsection (a), and that the information is correct, then the secretary of state must cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state’s determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited partnership. Service of the copy may be by first class mail.

(c) If the limited partnership name in subdivision (a)(2) is different than the limited partnership name in subdivision (a)(3), the application for reinstatement must constitute an amendment to the certificate of limited partnership insofar as it pertains to the limited partnership’s name.

(d) When reinstatement is effective, reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and the limited partnership resumes carrying on the limited partnership’s business as if the administrative dissolution had never occurred.

61-3-813. Judicial review of denial of reinstatement. [Effective January 1, 2018.]

(a) If the secretary of state denies a limited partnership’s application for reinstatement following administrative dissolution, the secretary of state must serve the limited partnership with a notice in a record that explains the reasons for the denial.

(b) A limited partnership may seek judicial review of a denial of reinstatement in the chancery court of Davidson County not later than thirty (30) days after service of the notice of denial.
61-3-901. Direct action by partner. [Effective January 1, 2018.]

(a) Subject to subsection (b), a partner may maintain a direct action against another partner or the limited partnership, with or without an accounting as to the limited partnership's activities and affairs, to enforce the partner's rights and otherwise protect the partner's interests, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.

(b) A partner maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

(c) A right to an accounting on a dissolution and winding up does not revive a claim barred by law.

61-3-902. Derivative action. [Effective January 1, 2018.]

A partner may maintain a derivative action to enforce a right of a limited partnership if:

(1) The partner first makes a demand on the general partners, requesting that the general partners cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

(2) A demand under subdivision (1) would be futile.

61-3-903. Proper plaintiff. [Effective January 1, 2018.]

A derivative action to enforce a right of a limited partnership may be maintained only by a person that:

(1) Is a partner at the time the action is commenced; and

(2) Either:

(A) Was a partner when the conduct giving rise to the action occurred; or

(B) Whose status as a partner devolved on the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

61-3-904. Pleading. [Effective January 1, 2018.]

In a derivative action, the complaint must state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by the general partner; or

(2) Why demand should be excused as futile.

61-3-905. Special litigation committee. [Effective January 1, 2018.]

(a) If a limited partnership is named as or made a party in a derivative proceeding, the partnership may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited partnership. If the limited partnership appoints a special litigation committee, on motion by the committee made in the name of the limited partnership, except for good cause shown, the court must stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection (a) does not prevent the court from:

(1) Enforcing a person's right to information under § 61-3-304 or § 61-3-
Granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee must be composed of one (1) or more disinterested and independent individuals, who may be partners.

(c) A special litigation committee may be appointed:

(1) By a majority of the general partners not named as parties in the proceeding; or

(2) If all general partners are named as parties in the proceeding, by a majority of the general partners named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited partnership that the proceeding:

(1) Continue under the control of the plaintiff;

(2) Continue under the control of the committee;

(3) Be settled on terms approved by the committee; or

(4) Be dismissed.

(e) After making a determination under subsection (d), a special litigation committee shall file with the court a statement of the committee’s determination and report supporting the committee’s determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made the committee’s recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court must enforce the committee’s determination. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) and allow the action to continue under the control of the plaintiff.

61-3-906. Proceeds and expenses. [Effective January 1, 2018.]

(a) Except as otherwise provided in subsection (b):

(1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff must remit the proceeds immediately to the limited partnership.

(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney’s fees and costs, from the recovery of the limited partnership.

(c) A derivative action on behalf of a limited partnership must not be voluntarily dismissed or settled without the court’s approval.

61-3-1001. Governing law. [Effective January 1, 2018.]

(a) Subject to the Constitution of Tennessee:

(1) The law of the jurisdiction of formation of a foreign limited partnership governs:

(A) The organization and internal affairs of the foreign limited partnership;
(B) The liability of a partner as partner for a debt, obligation, or other liability of the foreign limited partnership; and

(C) The liability of a series of the foreign limited partnership;

(2) A foreign limited partnership is not precluded from registering to do business in this state because of any difference between the law of the foreign limited partnership’s jurisdiction of formation and the law of this state.

(b) Registration of a foreign limited partnership to do business in this state does not authorize the foreign partnership to engage in any activities and affairs or exercise any power that a limited partnership may not engage in or exercise in this state.

61-3-1002. Registration to do business in this state. [Effective January 1, 2018.]

(a) A foreign limited partnership shall not do business in this state until the foreign limited partnership registers with the secretary of state under this part.

(b) A foreign limited partnership doing business in this state shall not maintain an action or proceeding in this state unless the foreign limited partnership is registered to do business in this state and has paid to this state all fees for the years or parts thereof during which the foreign limited partnership did business in this state without having registered.

(c) The failure of a foreign limited partnership to register to do business in this state does not impair the validity of a contract or act of the foreign limited partnership or preclude the foreign limited partnership from defending an action or proceeding in this state.

(d) A limitation on the liability of a general partner or limited partner of a foreign limited partnership is not waived solely because the foreign limited partnership does business in this state without registering to do business in this state.

(e) Section 61-3-1001(a) and (b) applies even if the foreign limited partnership fails to register under this part.

(f) Any foreign limited partnership doing business in this state without first having registered shall be fined and shall pay to the secretary of state three (3) times the otherwise required filing fees for each year or part thereof during which the foreign limited partnership failed to register in this state.

61-3-1003. Registration. [Effective January 1, 2018.]

(a) To register to do business in this state, a foreign limited partnership must submit to the secretary of state:

(1) An original copy executed by a general partner of an application for registration as a foreign limited partnership, setting forth:

(A) The name of the foreign limited partnership and, if different, the name under which the foreign limited partnership proposes to register and do business in this state;

(B) The jurisdiction where organized, the date of the foreign limited partnership’s organization and a statement from a general partner that, as of the date of filing, the foreign limited partnership validly exists as a limited partnership under the laws of the jurisdiction of the foreign limited partnership’s organization;

(C) The street address and zip code of the foreign limited partnership’s registered office in this state, and a mailing address such as a post office box.
if the United States postal service does not deliver to the principal office; the county in which that office is located; and the name of the foreign limited partnership’s registered agent at that office;

(D) The street address, including the zip code, of the foreign limited partnership’s principal office, and a mailing address such as a post office box if the United States postal service does not deliver to the principal office;

(E) The name and business, residence or mailing address and zip code of each of the general partners; and

(F) The date on which the foreign limited partnership first did, or intends to do, business in this state;

(2) With the completed application, a certificate of existence, or a document of similar import, duly authenticated by the secretary of state or other official having custody of limited partnership records in the jurisdiction under whose law it is formed. The certificate must not bear a date of more than two (2) months prior to the date the application is filed in this state; and

(3) A fee as set forth in § 61-3-1205.

(b) If the secretary of state determines upon registration that a foreign limited partnership has been doing business in this state for a period of one (1) year or more prior to applying for registration, then the secretary of state must not file the registration until the foreign limited partnership submits a confirmation of good standing.

61-3-1004. Amendment of foreign registration. [Effective January 1, 2018.]

(a) If any statement required by § 61-3-1003 in the application for registration of a foreign limited partnership was false when made or any matter described in the application for registration has changed, making the application false, the foreign limited partnership must promptly file with the secretary of state an application for an amended registration of a foreign limited partnership. Notwithstanding the preceding sentence, a change in the foreign limited partnership’s registered agent or registered office can be made by filing a statement of change as provided in § 61-3-116. Nothing in this chapter requires an amended registration if the only change in the certificate of foreign limited partnership is related to the admission or substitution of limited partners.

(b) The requirements of § 61-3-1003 for obtaining an original registration of a foreign limited partnership apply to obtaining an amended registration under this section.

61-3-1005. Activities not constituting doing business. [Effective January 1, 2018.]

(a) Activities of a foreign limited partnership that do not constitute doing business in this state under this part include:

(1) Maintaining, defending, or settling any proceeding, claim, or dispute;

(2) Holding meetings of the foreign limited partnership’s partners or representatives, or carrying on any other activities concerning the foreign limited partnership’s internal affairs;

(3) Maintaining bank accounts;

(4) Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited partnership’s own securities, or appointing and
maintaining trustees or depositories with respect to those securities;

(5) Selling through independent contractors;

(6) Soliciting or obtaining orders, whether by mail or through representa-
tives or otherwise, if the orders require acceptance outside of this state before
the orders become contracts;

(7) Creating or acquiring indebtedness, deeds of trust, mortgages, and
security interests in real or personal property;

(8) Securing or collecting debts or enforcing mortgages, deeds of trust, and
security interests in property securing the debts;

(9) Owning, without more, real or personal property. However, for a
reasonable time, the management and rental of real property acquired in
connection with enforcing a mortgage or deed of trust is also not considered
transacting business, if the owner is attempting to liquidate the investment,
and if no office or other agency for the office, other than an independent
agency, is maintained in this state;

(10) Conducting an isolated transaction that is completed within one (1)
month and that is not a transaction in the course of repeated transactions of
a like nature; or

(11) Transacting business in interstate commerce.

(b) A person does not do business in this state solely by being a partner of a
foreign limited partnership that does business in this state.

(c) The enumeration of activities in subsections (a) and (b) is not exhaustive,
and is applicable solely to determine whether a foreign limited partnership is
required to register and for no other purpose. This section does not apply in
determining the contacts or activities that may subject a foreign limited
partnership to service of process, taxation, or regulation under the law of this
state other than this chapter.

61-3-1006. Noncomplying name of foreign limited partnership.  
[Effective January 1, 2018.]

(a) A foreign limited partnership whose name does not comply with § 61-3-
112 shall not register to do business in this state until the foreign limited
partnership adopts, for the purpose of doing business in this state, an alternate
name that complies with § 61-3-112. After registering to do business in this
state with an alternate name, a foreign limited partnership shall do business in
this state under:

(1) The alternate name; or

(2) The foreign limited partnership’s name, with the addition of the foreign
limited partnership’s jurisdiction of formation.

(b) If a registered foreign limited partnership changes its name to one that
does not comply with § 61-3-112, the foreign limited partnership must not do
business in this state until it complies with subsection (a) by amending its
registration to adopt an alternate name that complies with § 61-3-112.

61-3-1007. Withdrawal deemed on conversion to domestic filing entity
or domestic limited liability partnership.  [Effective January 1, 2018.]

A registered foreign limited partnership that converts to a domestic limited
liability partnership or to a domestic entity whose formation requires delivery
of a record to the secretary of state for filing is deemed to have withdrawn its
registration on the effective date of the conversion.
61-3-1008. Transfer of registration. [Effective January 1, 2018.]

(a) When a registered foreign limited partnership has merged into a foreign entity that is not registered to do business in this state or has converted to a foreign entity required to register with the secretary of state to do business in this state, the foreign entity must deliver to the secretary of state for filing an application for transfer of registration. The application must state:

1. The name of the registered foreign limited partnership before the merger or conversion;
2. That, before the merger or conversion, the registration pertained to a foreign limited partnership;
3. The name of the applicant foreign entity into which the foreign limited partnership has merged or to which it has been converted and, if the name does not comply with § 61-3-112, an alternate name adopted pursuant to § 61-3-1006(a);
4. The type of entity of the applicant foreign entity and the foreign entity's jurisdiction of formation;
5. The street addresses, including zip code, of the principal office of the applicant foreign entity and if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street address of that office;
6. The name and street address, including zip code, of the applicant foreign entity's registered agent in this state; and
7. If the United States postal service does not deliver mail to any of the street addresses listed in the application, a mailing address, including zip code, to which mail may be delivered.

(b) When an application for transfer of registration takes effect, the registration of the foreign limited partnership to do business in this state is transferred without interruption to the foreign entity into which the partnership has merged or to which it has been converted.

61-3-1009. Revocation of registration. [Effective January 1, 2018.]

(a) The secretary of state may commence a proceeding under subsection (b) to administratively revoke the registration of a registered foreign limited partnership authorized to transact business in this state, if:

1. The foreign limited partnership does not deliver its annual report to the secretary of state within two (2) months after the report is due;
2. The foreign limited partnership is without a registered agent or registered office in this state for two (2) months or more;
3. The foreign limited partnership does not inform the secretary of state, under § 61-3-116 or § 61-3-117, that the foreign limited partnership's registered agent or registered office has changed, that the foreign limited partnership's registered agent has resigned, or that the foreign limited partnership's registered office has been discontinued, within two (2) months of the change, resignation, or discontinuance;
4. The name of the foreign limited partnership contained in a document filed pursuant to this chapter fails to comply with § 61-3-1006;
5. A general partner or representative of the foreign limited partnership signed a document the person knew was false in any material respect, with the intent that the document be delivered to the secretary of state for filing;
6. The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of the foreign limited
partnership’s records in the jurisdiction under the laws of which the foreign limited partnership is formed, stating that the foreign limited partnership has been terminated, or has been a constituent party to a merger and was not the surviving entity of the merger; 

(7) The foreign limited partnership is exceeding the authority conferred upon it by this part; or 

(8) The foreign limited partnership submits to the secretary of state a check, bank draft, money order, or other instrument for payment of any fee, and the instrument is dishonored upon presentation for payment.

(b)(1) If the secretary of state determines that one (1) or more grounds exist under subsection (a) for revocation of a registration, the secretary of state must serve the foreign limited partnership with written communication of the secretary of state’s determination, except that the determination may be sent by first class mail. If the grounds for revocation are pursuant to subdivision (a)(6), notice need not be sent, and a certificate of revocation may be sent without the two-month waiting period required by subdivision (b)(2).

(2) If the foreign limited partnership does not correct each ground for administrative revocation, or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, within two (2) months after service of the communication of the determination, the secretary of state may revoke the foreign limited partnership’s registration by signing a certificate of revocation that recites the ground or grounds for revocation and the revocation’s effective date. The secretary of state shall file the original of the certificate and shall serve a copy on the foreign limited partnership, except that the copy of the certificate may be sent by first class mail.

(3) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking the foreign limited partnership’s registration.

(4) The secretary of state’s revocation of a foreign limited partnership’s registration appoints the secretary of state as the foreign limited partnership’s agent for service of process in any proceeding based on a cause of action that arose during the time the foreign limited partnership was authorized to transact business in this state. Service of process on the secretary of state under this subdivision (b)(4) is service on the foreign limited partnership.

(5) The administrative revocation of a foreign limited partnership’s registration does not terminate the designation or authority of the registered agent or registered office of the limited partnership.

61-3-1010. Reinstatement of foreign limited partnership. [Effective January 1, 2018.]

(a) If the registration of a foreign limited partnership is administratively revoked pursuant to § 61-3-1009, the partnership may apply to the secretary of state for reinstatement following the administrative revocation. The application must:

(1) Be accompanied by a certificate of existence, or a document of similar import, duly authenticated by the secretary of state or other official having custody of foreign limited partnership’s records in the jurisdiction under whose law the foreign limited partnership is formed and bearing a date of no more than two (2) months prior to the date the application is filed in this
state;

(2) State the name of the foreign limited partnership at the time of the revocation of the foreign limited partnership’s registration;

(3) State a name for the limited partnership that satisfies § 61-3-112; and

(4) State that the grounds for revocation of the foreign limited partnership’s registration did not exist or have been eliminated.

(b) If the secretary of state determines that the application is accompanied by the required certificate of existence or corresponding document and contains the information required by subsection (a), and that the information is correct, then the secretary of state must cancel the certificate of revocation and prepare a certificate of reinstatement that recites the secretary of state’s determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the foreign limited partnership. Service of the copy may be made by first class mail.

(c) If the foreign limited partnership name in subdivision (a)(2) is different than the foreign limited partnership name in subdivision (a)(3), the application for reinstatement must constitute an amendment to the registration insofar as it pertains to the foreign limited partnership’s name.

(d) When reinstatement is effective, reinstatement relates back to and takes effect as of the effective date of the administrative dissolution, and the foreign limited partnership resumes carrying on its business as if the administrative dissolution had never occurred.

61-3-1011. Judicial review of denial of reinstatement of foreign limited partnership. [Effective January 1, 2018.]

(a) If the secretary of state denies a foreign limited partnership’s application for reinstatement following revocation of its registration, the secretary of state must serve the foreign limited partnership with a notice in a record that explains the reasons for the denial.

(b) A foreign limited partnership may seek judicial review of a denial of reinstatement in the chancery court of Davidson County not later than thirty (30) days after service of the notice of denial.

61-3-1012. Cancellation of registration. [Effective January 1, 2018.]

(a) A registered foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation of registration stating:

(1) The name of the foreign limited partnership and its jurisdiction of formation;

(2) That the foreign limited partnership is not doing business in this state and that it withdraws its registration to do business in this state;

(3) That the foreign limited partnership revokes the authority of its registered agent to accept service on its behalf in this state; and

(4) An address to which service of process may be made under subsection (b).

(b) After the withdrawal of the registration of a foreign limited partnership, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited partnership was registered to do business in this state may be made pursuant to § 61-3-119.
61-3-1013. Enjoining from doing business. [Effective January 1, 2018.]

The attorney general and reporter may maintain an action by complaint in the chancery court of any county in which a foreign limited partnership is transacting any business in this state to enjoin a foreign limited partnership from doing business in this state in violation of this part.

61-3-1101. Definitions. [Effective January 1, 2018.]

(a) As used in this part:
   (1) “Conversion” means a transaction authorized by §§ 61-3-1110 - 61-3-1115;
   (2) “Converted entity” means the converting entity as the converting entity continues in existence after a conversion;
   (3) “Converting entity” means the domestic entity that approves a plan of conversion pursuant to § 61-3-1112 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation;
   (4) “Distributional interest” means the right under an unincorporated entity’s organic law and organic rules to receive distributions from the entity;
   (5) “Domestic”, with respect to an entity, means governed as to the entity’s internal affairs by the law of this state;
   (6) “Entity”:
      (A) Means:
         (i) A business corporation;
         (ii) A nonprofit corporation;
         (iii) A general partnership, including a limited liability partnership;
         (iv) A limited partnership, including a limited liability limited partnership;
         (v) A limited liability company;
         (vi) A general cooperative association;
         (vii) A limited cooperative association;
         (viii) An unincorporated nonprofit association;
         (ix) A statutory trust, business trust, or common-law business trust; or
         (x) Any other person that has:
            (a) A legal existence separate from any interest holder of that person; or
            (b) The power to acquire an interest in real property in its own name; and
      (B) Does not include:
         (i) An individual;
         (ii) A trust with a predominantly donative purpose or a charitable trust;
         (iii) An association or relationship that is not an entity listed in subdivision (6)(A) and is not a partnership under § 61-1-202 or a similar provision of the governing jurisdiction;
         (iv) A decedent’s estate; or
         (v) A government or a governmental subdivision, agency, or instrumentality;
   (7) “Filing entity”:
      (A) Means an entity whose formation requires the filing of a public organic record; and
      (B) Does not include a limited liability partnership;
(8) “Foreign,” with respect to an entity, means an entity governed as to the entity’s internal affairs by the law of a jurisdiction other than this state;

(9) “Governance interest” means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for or consent to the election of the governors of the entity; or

(C) Receive notice of or vote on or consent to an issue involving the internal affairs of the entity;

(10) “Governor” means:

(A) A director of a business corporation;

(B) A director or trustee of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A manager of a manager-managed limited liability company;

(F) A member of a member-managed limited liability company;

(G) A director of a general cooperative association;

(H) A director of a limited cooperative association;

(I) A manager of an unincorporated nonprofit association;

(J) A trustee of a statutory trust, business trust, or common-law business trust; or

(K) Any other person under whose authority the powers of an entity are exercised and under whose direction the entity’s activities and affairs are managed pursuant to the organic law and organic rules of the entity;

(11) “Interest” means:

(A) A share in a business corporation;

(B) A membership in a nonprofit corporation;

(C) A partnership interest in a general partnership;

(D) A partnership interest in a limited partnership;

(E) A membership interest in a limited liability company;

(F) A share in a general cooperative association;

(G) A member’s interest in a limited cooperative association;

(H) A membership in an unincorporated nonprofit association;

(I) A beneficial interest in a statutory trust, business trust, or common-law business trust; or

(J) A governance interest or distributional interest in any other type of unincorporated entity;

(12) “Interest holder” means:

(A) A shareholder of a business corporation;

(B) A member of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A limited partner of a limited partnership;

(F) A member of a limited liability company;

(G) A shareholder of a general cooperative association;

(H) A member of a limited cooperative association;

(I) A member of an unincorporated nonprofit association;

(J) A beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or

(K) Any other direct holder of an interest;
(13) “Interest holder liability” means:
   (A) Personal liability for a liability of an entity that is imposed on a person:
      (i) Solely by reason of the status of the person as an interest holder; or
      (ii) By the organic rules of the entity that make one (1) or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or
   (B) An obligation of an interest holder under the organic rules of an entity to contribute to the entity;
(14) “Merger” means a transaction authorized by §§ 61-3-1104 - 61-3-1109;
(15) “Merging entity” means an entity that is a party to a merger and exists immediately before the merger becomes effective;
(16) “Organic law” means the law of an entity’s jurisdiction of formation governing the internal affairs of the entity;
(17) “Organic rules” means the public organic record and private organic rules of an entity;
(18) “Plan” means a plan of merger, plan of conversion, or plan of domestication;
(19) “Plan of conversion” means a plan under § 61-3-1111;
(20) “Plan of merger” means a plan under § 61-3-1105;
(21) “Private organic rules”:
   (A) Means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any; and
   (B) Includes:
      (i) The bylaws of a business corporation;
      (ii) The bylaws of a nonprofit corporation;
      (iii) The partnership agreement of a general partnership;
      (iv) The partnership agreement of a limited partnership;
      (v) The operating agreement of a limited liability company;
      (vi) The bylaws of a general cooperative association;
      (vii) The bylaws of a limited cooperative association;
      (viii) The governing principles of an unincorporated nonprofit association; and
      (ix) The trust instrument of a statutory trust or similar rules of a business trust or a common-law business trust;
(22) “Protected agreement” means:
   (A) A record evidencing indebtedness and any related agreement in effect on the date the entity becomes subject to this chapter pursuant to § 61-3-1207;
   (B) An agreement that is binding on an entity on the date the entity becomes subject to this chapter pursuant to § 61-3-1207;
   (C) The organic rules of an entity in effect on the date the entity becomes subject to this chapter pursuant to § 61-3-1207; or
   (D) An agreement that is binding on any of the governors or interest holders of an entity on the date the entity becomes subject to this chapter pursuant to § 61-3-1207;
(23) “Public organic record”:
   (A) Means the record the filing of which by the secretary of state is required to form an entity and any amendment to or restatement of that record; and
(B) Includes:
   (i) The articles of incorporation of a business corporation;
   (ii) The articles of incorporation of a nonprofit corporation;
   (iii) The certificate of limited partnership of a limited partnership;
   (iv) The certificate of organization of a limited liability company;
   (v) The articles of incorporation of a general cooperative association;
   (vi) The articles of organization of a limited cooperative association; and
   (vii) The certificate of trust of a statutory trust or similar record of a business trust;

(24) “Registered foreign entity” means a foreign entity that is registered to do business in this state pursuant to a record filed by the secretary of state;
(25) “Statement of conversion” means a statement under § 61-3-1114;
(26) “Statement of merger” means a statement under § 61-3-1108;
(27) “Surviving entity” means the entity that continues in existence after or is created by a merger; and
(28) “Type of entity” means a generic form of entity:
   (A) Recognized at common law; or
   (B) Formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

61-3-1102. Required notice or approval. [Effective January 1, 2018.]

(a) A domestic entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger shall give the notice or obtain the approval to be a party to a conversion.

(b) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective must not, as a result of the transaction, be diverted from the objects for which the property was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the attorney general specifying the disposition of the property.

(c) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity.

(d) A trust obligation that would govern property if transferred to a nonsurviving entity applies to property that is transferred to the surviving entity under this section.

61-3-1103. Appraisal rights. [Effective January 1, 2018.]

An interest holder of a domestic merging or converting limited partnership is entitled to contractual appraisal rights in connection with a transaction under this part only to the extent provided in:

(1) The partnership agreement; or
(2) The plan.
61-3-1104. Merger Authorized. [Effective January 1, 2018.]

(a) By complying with §§ 61-3-1105 - 61-3-1109:
   (1) One (1) or more domestic limited partnerships may merge with one (1) or more domestic or foreign entities into a domestic or foreign surviving entity; and
   (2) Two (2) or more foreign entities may merge into a domestic limited partnership.
(b) By complying with the provisions of §§ 61-3-1104 - 61-3-1109 applicable to foreign entities, a foreign entity may be a party to a merger under §§ 61-3-1105 - 61-3-1109 or may be the surviving entity in the merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

61-3-1105. Plan of merger. [Effective January 1, 2018.]

(a) A domestic limited partnership may become a party to a merger under this section and §§ 61-3-1106 - 61-3-1109 by approving a plan of merger. The plan must be in a record and contain:
   (1) As to each merging entity, its name, jurisdiction of formation, and type of entity;
   (2) If the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
   (3) The manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
   (4) If the surviving entity exists before the merger, any proposed amendments to:
      (A) Its public organic record, if any; and
      (B) Its private organic rules that are, or are proposed to be, in a record;
   (5) If the surviving entity is to be created in the merger:
      (A) Its proposed public organic record, if any; and
      (B) The full text of its private organic rules that are proposed to be in a record;
   (6) The other terms and conditions of the merger; and
   (7) Any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
(b) In addition to the requirements of subsection (a), a plan of merger may contain any other provision not prohibited by law.

61-3-1106. Approval of merger. [Effective January 1, 2018.]

(a) A plan of merger is not effective unless the plan has been approved:
   (1) By a domestic merging limited partnership, the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective; and
   (2) In a record, by each partner of a domestic merging limited partnership that will have interest holder liability for debts, obligations, and other liabilities that are incurred after the merger becomes effective, unless:
      (A) The partnership agreement of the partnership provides in a record for the approval of a merger in which some or all of its partners become subject to interest holder liability by the affirmative vote or consent of fewer
than all the partners; and

(B) The partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.

(b) A merger involving a domestic merging entity that is not a limited partnership is not effective unless the merger is approved by that entity in accordance with the entity's organic law.

(c) A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity’s jurisdiction of formation.

61-3-1107. Amendment or abandonment of plan of merger. [Effective January 1, 2018.]

(a) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

(b) A domestic merging limited partnership may approve an amendment of a plan of merger:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which the plan may be amended; or

(2) By its partners in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;

(B) The public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(c) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited partnership may abandon the plan in the same manner as the plan was approved.

(d) If a plan of merger is abandoned after a statement of merger has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the secretary of state for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:

(1) The name of each party to the plan of merger;

(2) The date on which the statement of merger was filed by the secretary of state; and

(3) A statement that the merger has been abandoned in accordance with this section.

61-3-1108. Statement of merger — Effective date of merger. [Effective January 1, 2018.]

(a) A statement of merger must be signed by each merging entity and
delivered to the secretary of state for filing.

(b) A statement of merger must contain:

(1) The name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;
(2) The name, jurisdiction of formation, and type of entity of the surviving entity;
(3) A statement that the merger was approved by each domestic merging entity, if any, in accordance with §§ 61-3-1104 - 61-3-1109 and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;
(4) If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;
(5) If the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment; and
(6) If the surviving entity is created by the merger and is a domestic limited liability partnership, its application for registration, as an attachment.

(c) In addition to the requirements of subsection (b), a statement of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the law of this state, except that the public organic record does not need to be signed.

(e) If the surviving entity is a domestic limited partnership, the merger becomes effective when the statement of merger is effective. In all other cases, the merger becomes effective on the later of:

(1) The date and time provided by the organic law of the surviving entity; and
(2) When the statement is effective.

61-3-1109. Effect of merger. [Effective January 1, 2018.]

(a) When a merger becomes effective:

(1) The surviving entity continues or comes into existence;
(2) Each merging entity that is not the surviving entity ceases to exist;
(3) All property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;
(4) All debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;
(5) Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;
(6) If the surviving entity exists before the merger:
   (A) All of the surviving entity's property continues to be vested in it without transfer, reversion, or impairment;
   (B) The surviving entity remains subject to all of its debts, obligations, and other liabilities; and
   (C) All the surviving entity's rights, privileges, immunities, powers, and purposes continue to be vested in it;
(7) The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
(8) If the surviving entity exists before the merger:
(A) The surviving entity's public organic record, if any, is amended to the extent provided in the statement of merger; and

(B) The surviving entity's private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;

(9) If the surviving entity is created by the merger, its private organic rules become effective and:

(A) If the surviving entity is a filing entity, its public organic record becomes effective; and

(B) If the surviving entity is a limited liability partnership, its application for registration becomes effective; and

(10) The interests in each merging entity that are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under § 61-3-1103 and the merging entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.

(c) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that are incurred after the merger becomes effective.

(d) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging limited partnership with respect to which the person had interest holder liability is subject to the following:

(1) The merger does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the merger became effective;

(2) The person does not have interest holder liability under this chapter for any debt, obligation, or other liability that is incurred after the merger becomes effective;

(3) This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under subdivision (d)(1) as if the merger had not occurred; and

(4) The person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter, or the partnership agreement of the domestic merging limited partnership with respect to any interest holder liability preserved under subdivision (d)(1) as if the merger had not occurred.

(e) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging limited partnership as provided in § 61-3-119.

(f) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is cancelled.
61-3-1110. Conversion authorized. [Effective January 1, 2018.]

(a) By complying with §§ 61-3-1111 - 61-3-1115, a domestic limited partnership may become:
   (1) A domestic entity that is a different type of entity; or
   (2) A foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(b) By complying with the provisions of §§ 61-3-1111 - 61-3-1115 applicable to foreign entities, a foreign entity may become a domestic limited partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a conversion, the provision applies to a conversion of the partnership as if the conversion were a merger until the provision is amended after the date the entity becomes subject to this chapter pursuant to § 61-3-1207.

61-3-1111. Plan of conversion. [Effective January 1, 2018.]

(a) A domestic limited partnership may convert to a different type of entity under this section and §§ 61-3-1112 - 61-3-1115 by approving a plan of conversion. The plan must be in a record and contain:
   (1) The name of the converting limited partnership;
   (2) The name, jurisdiction of formation, and type of entity of the converted entity;
   (3) The manner of converting the interests in the converting limited partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
   (4) The proposed public organic record of the converted entity if it will be a filing entity;
   (5) The private organic rules of the converted entity that are proposed to be in a record when the conversion is effective;
   (6) Any other terms and conditions of the conversion not otherwise set forth in the private organic rules of the converting limited partnership or the law of this state; and
   (7) Any other provision required by the law of this state or the partnership agreement of the converting limited partnership.

(b) In addition to the requirements of subsection (a), a plan of conversion may contain any other provision not prohibited by law.

61-3-1112. Approval of conversion. [Effective January 1, 2018.]

(a) A plan of conversion is not effective unless it has been approved:
   (1) By a domestic converting limited partnership, the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective; and
   (2) In a record, by each partner of a domestic converting limited partnership that will have interest holder liability for debts, obligations, and other liabilities that are incurred after the conversion becomes effective, unless:
      (A) The partnership agreement of the partnership provides in a record for the approval of a conversion or a merger in which some or all of its partners become subject to interest holder liability by the affirmative vote or
consent of fewer than all of the partners; and

(B) The partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.

(b) A conversion involving a domestic converting entity that is not a limited partnership is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

(c) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

61-3-1113. Amendment or abandonment of plan of conversion.
[Effective January 1, 2018.]

(a) A plan of conversion of a domestic converting limited partnership may be amended:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(2) By its partners in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting partnership under the plan;

(B) The public organic record, if any, or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(b) After a plan of conversion has been approved by a domestic converting limited partnership and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting limited partnership may abandon the plan in the same manner as the plan was approved.

(c) If a plan of conversion is abandoned after a statement of conversion has been delivered to the secretary of state for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the secretary of state for filing before the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(1) The name of the converting limited partnership;

(2) The date on which the statement of conversion was filed by the secretary of state; and

(3) A statement that the conversion has been abandoned in accordance with this section.
61-3-1114. Statement of conversion — Effective date of conversion. [Effective January 1, 2018.]

(a) A statement of conversion must be signed by the converting entity and delivered to the secretary of state for filing.

(b) A statement of conversion must contain:
   (1) The name, jurisdiction of formation, and type of entity of the converting entity;
   (2) The name, jurisdiction of formation, and type of entity of the converted entity;
   (3) If the converting entity is a domestic limited partnership, a statement that the plan of conversion was approved in accordance with §§ 61-3-1112 - 61-3-1115 or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign entity in accordance with the law of its jurisdiction of formation;
   (4) If the converted entity is a domestic filing entity, its public organic record, as an attachment; and
   (5) If the converted entity is a domestic limited liability partnership, its application for registration, as an attachment.

(c) In addition to the requirements of subsection (b), a statement of conversion may contain any other provision not prohibited by law.

(d) If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed.

(e) If the converted entity is a domestic limited partnership, the conversion becomes effective when the statement of conversion is effective. In all other cases, the conversion becomes effective on the later of:
   (1) The date and time provided by the organic law of the converted entity; and
   (2) When the statement is effective.

61-3-1115. Effect of conversion. [Effective January 1, 2018.]

(a) When a conversion becomes effective:
   (1) The converted entity is:
      (A) Organized under and subject to the organic law of the converted entity; and
      (B) The same entity without interruption as the converting entity;
   (2) All property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
   (3) All debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
   (4) Except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
   (5) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
   (6) The certificate of limited partnership of the converted entity becomes effective;
   (7) The provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion become effective; and
The interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under § 61-3-1103. (b) Except as otherwise provided in the partnership agreement of a domestic converting limited partnership, the conversion does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the converting entity. 

(c) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that are incurred after the conversion becomes effective. 

(d) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic converting limited partnership with respect to which the person had interest holder liability is subject to the following:

(1) The conversion does not discharge any interest holder liability under this chapter to the extent the interest holder liability was incurred before the conversion became effective; 

(2) The person does not have interest holder liability under this chapter for any debt, obligation, or other liability that is incurred after the conversion becomes effective; 

(3) This chapter continues to apply to the release, collection, or discharge of any interest holder liability preserved under subdivision (d)(1) as if the conversion had not occurred; and 

(4) The person has whatever rights of contribution from any other person as are provided by this chapter, law other than this chapter or the organic rules of the converting entity with respect to any interest holder liability preserved under subdivision (d)(1) as if the conversion had not occurred. 

(e) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in § 61-3-119. 

(f) If the converting entity is a registered foreign entity, its registration to do business in this state is cancelled when the conversion becomes effective. 

(g) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

61-3-1201. Uniformity of application and construction. [Effective January 1, 2018.]

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. The rule that statutes in derogation of the common law are to be strictly construed does not apply to this chapter.

61-3-1202. Relation to electronic signatures in global and national commerce act. [Effective January 1, 2018.]

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.) but does not
modify, limit, or supersede 15 U.S.C. § 7001(c) or authorize electronic delivery

61-3-1203. Savings clause. [Effective January 1, 2018.]

This chapter does not affect an action commenced, proceeding brought, or
right accrued before January 1, 2018.

61-3-1204. Severability clause. [Effective January 1, 2018.]

If any provision of this chapter or its application to any person or circum-
stance is held invalid, the invalidity does not affect other provisions or
applications of this chapter that can be given effect without the invalid
provision or application, and to that end the provisions of this chapter are
severable.

61-3-1205. Fees. [Effective January 1, 2018.]

(a) The secretary of state shall collect the following fees when the documents
described in this subsection (a) are delivered to the secretary of state for filing:
   (1) Annual report for secretary of state — $20.00;
   (2) Application for use of indistinguishable name — $20.00;
   (3) Application for reservation of limited partnership name — $20.00;
   (4) Notice of transfer of reserved name — $20.00;
   (5) Notice of cancellation of reserved name — $20.00;
   (6) Statement of change of registered agent/office (by domestic/foreign
limited partnership) — $20.00;
   (7) Statement of change of registered office of limited partnership (by
agent) — $5.00 per limited partnership, but not less than $20.00;
   (8) Statement of resignation of registered agent for limited partnership —
$20.00;
   (9) Certificate of limited partnership (including designation of initial
registered office and agent) — $100;
   (10) Amendment to the certificate of limited partnership — $20.00;
   (11) Certificate of cancellation of limited partnership — $20.00;
   (12) Restated certificate of limited partnership — $20.00;
   (13) Amended and restated certificate of limited partnership — $20.00;
   (14) Certificate of merger of limited partnership — $100;
   (15) Application for registration of foreign limited partnership (including
designation of initial registered office and agent) — $600;
   (16) Application for amended registration of foreign limited partnership —
$20.00;
   (17) Certificate of cancellation of registration of foreign limited partner-
ship — $20.00;
   (18) Certificate of correction — $20.00;
   (19) Execution, amendment or cancellation of limited partnership by
judicial order — No Fee;
   (20) Application for certificate of existence or registration of limited part-
nership — $20.00;
   (21) Application for reinstatement — $70.00;
   (22) Statement of dissolution — $20.00;
   (23) Withdrawal statement — $25.00; and
(24) Any other document required or permitted to be filed by this chapter — $20.00;

(b) The secretary of state shall collect a fee of twenty dollars ($20.00) each time process is served on the secretary of state under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The secretary of state shall collect a fee of twenty dollars ($20.00) for copying all filed documents relating to a domestic or foreign limited partnership. All copies must be certified or validated by the secretary of state.

61-3-1206. Short title. [Effective January 1, 2018.]

This chapter shall be known and may be cited as the “Tennessee Uniform Limited Partnership Act of 2017.”

61-3-1207. Applicability — Savings clause. [Effective January 1, 2018.]

(a)(1) This chapter applies to:

(A) Every domestic limited partnership formed on or after January 1, 2018;

(B) Any domestic limited partnership that was formed prior to January 1, 2018, and that has elected to be governed by this chapter pursuant to subsection (b); and

(C) The outstanding and future interests in the respective domestic limited partnerships described in subdivisions (a)(1)(A) and (B).

(2) If there are other specific statutory provisions that govern the formation of, impose restrictions or requirements on, confer special powers, privileges or authorities on or fix special procedures or methods for special categories of limited partnerships, then, to the extent those provisions are inconsistent with or different from this chapter, those provisions prevail.

(b)(1) On or after January 1, 2018, a domestic limited partnership formed prior to January 1, 2018, under the Tennessee Uniform Limited Partnership Act of 1988, compiled in chapter 2 of this title, may voluntarily elect to be governed by this chapter by amending its certificate of limited partnership to include the statement “This limited partnership elects to be governed by the Tennessee Uniform Limited Partnership Act of 2017,” or a statement of like import. The election and amendment to the certificate of limited partnership is not effective unless it has been approved in a record by:

(A) All general partners; and

(B) The limited partners or, if there is more than one (1) class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than fifty percent (50%) of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

(2) Any partnership presently governed by the Tennessee Uniform Limited Partnership Act of 1988 that does not voluntarily elect to be governed by this chapter pursuant to subdivision (b)(1), continues to be governed by the Tennessee Uniform Limited Partnership Act of 1988.

(c)(1) Any limited partnership formed prior to January 1, 1988, that is presently governed by the limited partnership law in effect prior to January 1, 1988, may voluntarily elect to be governed by this chapter by filing a
certificate of limited partnership pursuant to § 61-3-201. The certificate must include the statement "This limited partnership elects to be governed by the Tennessee Uniform Limited Partnership Act of 2017," or a statement of like import. This election and the filing of the certificate of limited partnership is not effective unless it has been approved in a record by:

(A) All general partners; and

(B) The limited partners or, if there is more than one (1) class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than fifty percent (50%) of the then current percentage or other interest in the profits of the domestic limited partnership owned by all of the limited partners or by the limited partners in each class or group, as appropriate.

(2) Any limited partnership that does not voluntarily elect to be governed by this chapter pursuant to subdivision (c)(1), shall continue to be governed by the law under which the limited partnership is presently governed, except that the limited partnership shall not have its term extended other than under this chapter.

(d)(1) This chapter applies to:

(A) Every foreign limited partnership that first registers to do business in this state on or after January 1, 2018;

(B) Every foreign limited partnership that registers a name in this state on or after January 1, 2018; and

(C) Every foreign limited partnership that has registered a name in this state prior to January 1, 2018, pursuant to the Tennessee Uniform Limited Partnership Act of 1988.

(2) With respect to each foreign limited partnership that first registered to do business in this state prior to January 1, 2018, the Tennessee Uniform Limited Partnership Act of 1988 applies to the foreign limited partnership until the due date of the first annual report required to be filed by the foreign limited partnership on or after January 1, 2018, after which due date this chapter applies to the foreign limited partnership, except that the foreign limited partnership is not required to again register to do business in this state.

(e) This chapter does not affect an action or proceeding commenced, or right accrued, under the Tennessee Uniform Limited Partnership Act of 1988.


(a) The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as an engineer:

(1) Graduation from Approved Engineering Curriculum, Experience and Examination. A graduate of an engineering curriculum of four (4) years or more, approved by the board as being of satisfactory standing, and with a specific record of four (4) years or more of progressive experience on engineering projects of a grade and character that indicates to the board that the applicant may be competent to practice engineering, and passed an examination prepared by the National Council of Examiners for Engineering and Surveying involving the fundamentals of engineering, shall be admitted to an examination prepared by the National Council of Examiners for Engineering and Surveying in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of registration to practice engineering in this state; provided, that the appli-
cant is otherwise qualified;

(2) **Long Established Practice.** A graduate of an approved engineering curriculum of four (4) years or more, with a specific record of twelve (12) years or more of progressive experience on engineering projects of a grade and character that indicates to the board that the applicant may be competent to practice engineering shall be admitted to an examination prepared by the National Council of Examiners for Engineering and Surveying, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of registration to practice engineering in this state; provided, that the applicant is otherwise qualified; or

(3) [Deleted by 2007 amendment.]

(4) *[Effective until June 30, 2019.]* **Master’s Degree from Approved Institution.** A person who holds a master’s degree in engineering from an institution with an ABET accredited engineering program approved by the board as being of satisfactory standing, and with a specific record of twenty (20) years or more of progressive experience on engineering projects of a grade and character that indicates to the board that the applicant is competent to practice engineering and who has passed the Fundamentals of Engineering Examination administered by the National Council of Examiners for Engineering and Surveying (NCEES) shall be admitted to an examination prepared by the NCEES, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of registration to practice engineering in this state if the applicant is otherwise qualified.

(b) Notwithstanding any provision to the contrary, the board may in its discretion grant up to one (1) year of qualified experience obtained in an established cooperative education program that is carried out within the framework of an approved engineering curriculum and that has been approved by the board.


The following persons are exempt from this chapter while in the proper discharge of their professional duties:

(1) Persons authorized by the law of this state to practice medicine and surgery;

(2) Commissioned medical or surgical officers of the United States army, navy, air force or marine hospital service;

(3) Registered nurses;

(4) Duly registered cosmetologists operating in accordance with chapter 4 of this title; and

(5) Any person whose occupation or practice is confined solely to shampooing, as defined in § 62-4-102.

62-3-109. Shop registration, styling, supervision and management — Barbering in other locations. *[Effective until January 1, 2018. See the version effective on January 1, 2018.]*

(a) It is unlawful to operate a barber shop or barber styling shop without a valid certificate of registration issued by the board. Application for the certificate shall be made upon application forms furnished by the board.

(b) Prior to the opening of any new barber or styling shop or change of
location of an existing barber or styling shop, an inspector of the board shall inspect and approve the shop. Inspections of shops shall be made within ten (10) days of receipt of a request for an inspection, with the request to be accompanied by payment for the inspection. If the ownership of a shop changes, the new owner may not operate the shop more than thirty (30) days after the date of the change of ownership unless, within the thirty-day period, the new owner submits an application for a license to operate the shop and has paid the proper fees. Any change of location or ownership or new shop shall be reported to the office of the board immediately.

(c)(1) As used in this chapter, unless the context otherwise requires:

(A) “Designated manager” means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer who serves in a supervisory or managerial capacity of the shop in the absence of the manager; and

(B) “Manager” means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer who serves in a supervisory or managerial capacity in the shop whose information is filed with the board.

(2) Each shop licensed by the board shall designate a manager. The shop shall submit the name and license information of its manager upon application and renewal.

(3) It is unlawful to operate a shop unless it is, at all times, under the direction of a manager or designated manager. While on duty, the manager or designated manager shall be responsible for the shop’s compliance with this chapter and the rules of the board. The board may require the name of the shop’s manager or designated manager to be posted in such form and location as the board may prescribe.

(4) The manager and designated manager may manage those who practice disciplines in cosmetology or barbering other than the discipline in which the manager or designated manager is licensed; however, the manager or designated manager shall only practice within the field that the person is licensed.

(d) Except as provided in § 62-3-108, it is unlawful to perform any act constituting barbering under § 62-3-105 in any place other than a duly registered barber shop, barber styling shop, barber school or college, licensed funeral establishment, registered mobile shop, nursing home, hospital health facilities or in the residence of the person treated when the person is actually ill.

62-3-109. Shop registration, styling, supervision and management — Barbering in other locations. [Effective on January 1, 2018. See the version effective until January 1, 2018.]

(a) It is unlawful to operate a barber shop or barber styling shop without a valid certificate of registration issued by the board. Application for the certificate shall be made upon application forms furnished by the board.

(b) Prior to the opening of any new barber or styling shop or change of location of an existing barber or styling shop, an inspector of the board shall inspect and approve the shop. Inspections of shops shall be made within ten (10) days of receipt of a request for an inspection, with the request to be accompanied by payment for the inspection. If the ownership of a shop changes, the new
owner may not operate the shop more than thirty (30) days after the date of the
change of ownership unless, within the thirty-day period, the new owner
submits an application for a license to operate the shop and has paid the proper
fees. Any change of location or ownership or new shop shall be reported to the
office of the board immediately.

(c)(1) As used in this chapter, unless the context otherwise requires:

(A) “Designated manager” means a person licensed under chapter 3 or
chapter 4 of this title in at least one (1) discipline that a shop is licensed to
offer who serves in a supervisory or managerial capacity of the shop in the
absence of the manager; and

(B) “Manager” means a person licensed under chapter 3 or chapter 4 of
this title in at least one (1) discipline that a shop is licensed to offer who
serves in a supervisory or managerial capacity in the shop whose informa-
tion is filed with the board.

(2) Each shop licensed by the board shall designate a manager. The shop
shall submit the name and license information of its manager upon applica-
tion and renewal.

(3) It is unlawful to operate a shop unless it is, at all times, under the
direction of a manager or designated manager. While on duty, the manager or
designated manager shall be responsible for the shop’s compliance with this
chapter and the rules of the board. The board may require the name of the
shop’s manager or designated manager to be posted in such form and location
as the board may prescribe.

(4) The manager and designated manager may manage those who practice
disciplines in cosmetology or barbering other than the discipline in which the
manager or designated manager is licensed; however, the manager or
designated manager shall only practice within the field that the person is
licensed.

(d) Except as provided in § 62-3-108, it is unlawful to perform any act
constituting barbering under § 62-3-105 in any place other than a duly
registered barber shop, barber styling shop, barber school or college, licensed
funeral establishment, registered mobile shop, nursing home, hospital health
facilities or in the residence of the person to whom the services are being
rendered pursuant to § 62-3-135.

62-3-110. Qualifications for technicians and master barbers.

(a)(1) Any person who desires a certificate of registration as a technician,
authorizing the person to apply tints or dyes to the hair, shampoo hair,
manicure nails and apply cosmetic preparations, antiseptics, powders, oils,
clays or lotions to scalp, face, neck or other parts of the body, shall submit an
application for examination to the state board of cosmetology and barber
examiners on the prescribed form.

(2) The application shall be accompanied by proof of satisfactory comple-
tion of a course in a registered barber school or college of no less than three
hundred forty (340) hours of continuous instruction, including no more than
eight (8) hours per day and forty (40) hours per week in the following
subjects:

(A) Scientific fundamentals of shampooing, tinting, dyeing, manicuring,
the application of cosmetic preparations, hygiene and bacteriology;

(B) Histology of the hair and hair structure; and
(C) Massaging and manipulation of the muscles of the arms, hands and scalp.

(3) The application shall also contain proof that:
   (A) The applicant is at least seventeen (17) years of age; and
   (B) The applicant has received a high school diploma or, in lieu of a high school diploma, has received a GED® or HiSET® diploma.

(b) Any person who desires a certificate of registration as a master barber shall submit an application for examination to the state board of cosmetology and barber examiners on the prescribed form. The application shall be accompanied by proof that the applicant:
   (1) Is at least seventeen (17) years of age;
   (2) Has received a high school diploma or, in lieu of a high school diploma, has received a GED® or HiSET® diploma; and
   (3) Either:
      (A) Has satisfactorily completed a course of one thousand five hundred (1,500) hours in a registered barber school or college; or
      (B) Holds a valid Tennessee cosmetology license and has completed three hundred (300) hours in a registered barber school or college regarding the fundamentals of straight razor shaving and barbering technique.

62-3-134. Certificate of registration for mobile shop.

(a) No person shall operate a mobile shop, as defined in § 62-4-102, where barbering or barber styling is practiced without a valid certificate of registration for a mobile shop issued by the board. Application for the certificate shall be made upon application forms furnished by the board.

(b) The board shall issue a certificate of registration for a mobile shop to an applicant who:
   (1) Holds a valid, current certificate of registration for a barber shop that has a fixed location;
   (2) Pays an application fee in an amount set by the board by rule, not to exceed the cost of administering this section;
   (3) Pays an initial registration fee in the amount set by the board by rule; and
   (4) Undergoes and passes an initial inspection.

(c) A certificate of registration for a mobile shop shall be subject to renewal at the same time that the registrant’s barber shop registration is subject to renewal pursuant to § 62-3-129. The renewal fee for a certificate of registration for a mobile shop shall be set by the board by rule.

(d) A mobile shop for which a certificate of registration is issued shall be subject to all of the health and safety requirements that apply to barber shops that have a fixed location under this chapter and the rules promulgated pursuant thereto; provided, that a mobile shop shall not be required to have a restroom and that the board may promulgate rules allowing or requiring mobile shops to have equipment different from shops with a fixed location.

(e)(1) The board may either refuse to issue or renew or may suspend or revoke any certificate of registration for a mobile shop for any of the reasons in § 62-3-121.

   (2) The board shall revoke any certificate of registration for a mobile shop if the registrant’s certificate of registration for a barber shop that has a fixed
location expires or is revoked.

(3) If a registrant’s certificate of registration for a barber shop that has a fixed location is suspended, the board shall also suspend any certificate of registration that has been issued to such registrant for a mobile shop for the same period of time.

62-3-135. Residential barber certificate. [Effective January 1, 2018.]

(a) No person may provide residential services without a valid residential barber certificate issued by the board pursuant to this section. Application for a residential barber certificate must be made upon application forms furnished by the board.

(b) The board shall issue a residential barber certificate to an applicant who:

1. Holds a valid, current certificate of registration as a barber;
2. Pays an application fee in an amount set by the board by rule, not to exceed the cost of administering this section;
3. Pays an initial registration fee in an amount set by the board by rule; and
4. Undergoes and passes an initial inspection of the equipment used to provide residential services, as determined by the board by rule.

(c) A residential barber certificate is subject to renewal at the same time that the registrant's barber registration is subject to renewal. The renewal fee for a residential barber certificate shall be set by the board by rule.

(d) The board may promulgate rules regarding health and safety requirements for barbers providing residential services.

(e)(1) The board may either refuse to issue or renew, or may suspend or revoke, any residential barber certificate pursuant to this section for any of the reasons in § 62-3-121.

2. The board shall revoke any residential barber certificate issued pursuant to this section if the registrant’s certificate of registration as a barber expires or is revoked.

3. If a registrant’s certificate of registration as a barber is suspended, the board must also suspend the registrant’s residential barber certificate that has been issued, if any.

(f) Any barber providing residential services shall, prior to performing such services, make the barber’s residential barber certificate available to the person for review.

(g) For purposes of this section:

1. “Residential barber certificate” means a certificate of registration for the provision of residential services issued by the board; and
2. “Residential services” means services set out in § 62-3-105 when provided in the residence of the person to whom the services are being rendered.

62-4-102. Chapter definitions — Exceptions.

(a) As used in this chapter, unless the context otherwise requires:

1. “Aesthetics” means any of the following practices:
   A. Massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work with hands or mechanical or electrical apparatus or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams;
   B. Placing or applying artificial eyelashes; or
(C) Giving facials, applying makeup, giving skin care or removing superfluous hair by tweezing, depilatories or waxing;
(2) “Board” means the state board of cosmetology and barber examiners created by § 62-4-103;
(3) “Cosmetology” means any of the following practices:
   (A) Arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring or similar work on the hair of any person by any means;
   (B) Caring and servicing of wigs and hair pieces;
   (C) Manicuring;
   (D) Massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work upon the hands, arms, face, neck or feet with hands or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams;
   (E) Placing or applying artificial eyelashes;
   (F) Giving facials, applying makeup, giving skin care or removing superfluous hair by tweezing, depilatories or waxing;
   (G) Providing a necessary service that is preparatory or ancillary to a service pursuant to this subdivision (a)(3);
   (H) Treating a person’s mustache or beard by arranging, beautifying, coloring, processing, styling, trimming, or shaving with a safety razor;
   (I) Shampooing; or
   (J) Natural hair styling;
(4) “Cosmetology shop” means any place of business where any person engages or offers to engage in any practice of cosmetology for a fee or other form of compensation, but does not include a manicure shop, skin care shop, or natural hair styling shop;
(5) “Designated manager” means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer, and who serves in a supervisory or managerial capacity of the shop in the absence of the manager;
(6) “Dual shop” means any shop licensed by the board where services are performed or offered to be performed in more than one (1) field of cosmetology, including aesthetics, natural hair styling, and manicuring, or in both cosmetology, or a field of cosmetology, and barbering. A dual shop does not include a shop licensed solely as a cosmetology shop or a single specialty thereof, or as a barber shop;
(7) “Hair wrapping” means the wrapping of manufactured materials around a strand or strands of human hair for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions or performing any other service otherwise covered by this chapter;
(8) “Instructor trainee” means any person who holds a valid cosmetologist’s, manicurist’s, aesthetician’s or natural hair stylist’s license issued by the board who is engaged in a board-approved course in instructor training of at least three hundred (300) hours to be completed within a period of six (6) months, which course includes practice teaching in a school under the personal supervision of a licensed instructor;
(9) “Junior instructor” means any person who holds a valid cosmetologist’s, manicurist’s, aesthetician’s or natural hair stylist’s license issued by the board who is engaged in a course of training in practice teaching in a school under the personal supervision of a licensed instructor for a period of
time not to exceed three (3) years;

(10) “Manager” means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer, who serves in a supervisory or managerial capacity in the shop, and whose information is filed with the board;

(11) “Managing aesthetician” means a person licensed to practice aesthetics who is designated by the owner of a skin care shop to be responsible for supervising the operation of the shop and its employees;

(12) “Managing cosmetologist” means a licensed cosmetologist who is designated by the owner of a cosmetology shop to be responsible for supervising the operation of the shop and its employees;

(13) “Managing manicurist” means a person licensed to practice manicuring who is designated by the owner of a manicure shop to be responsible for supervising the operation of the shop and its employees;

(14) “Manicure shop” means any place of business where any person performs or offers to perform only manicuring services for a fee or other form of compensation;

(15) “Manicuring” means manicuring or pedicuring the nails of any person or performing nail artistry;

(16) “Mobile shop” means any self-contained, self-supporting, enclosed motor vehicle that may be used as a barber shop, cosmetology shop, dual shop, manicure shop, skin care shop, or any other category of shop licensed by the board;

(17) “Natural hair styling” means techniques that result in tension on hair strands such as twisting, wrapping, weaving, extending, locking or braiding of the hair by hand or mechanical appliances, which work does not include the application of dyes, reactive chemicals or other preparations to alter the color or to straighten, curl or alter the structure of the hair. The techniques include providing or offering to the general public for compensation any of the following services solely for development or improvement of physical qualities of the natural hair structure:

(A) Intertwining in a systematic motion to create patterns in a three-dimensional form;

(B) Inversion or outversion flat against the scalp along the part of a straight or curved row; or

(C) Extension with natural or synthetic fibers;

(18) “Natural hair styling shop” means a place of business where a person licensed pursuant to this chapter performs or offers to perform only natural hair styling for a fee or other form of compensation;

(19) “Natural hair stylist” means a person licensed to practice natural hair styling;

(20) “Safety razor” means a razor that is fitted with a guard close to the cutting edge of the razor that is intended to:

(A) Prevent the razor from cutting too deeply; and

(B) Reduce the risk and incidence of accidental cuts;

(21) “School” means a school of cosmetology;

(22) “Shampooing” means any brushing, combing, shampooing, rinsing or conditioning upon the hair and scalp;

(23) “Shop” means a cosmetology shop, manicure shop, skin care shop, or natural hair styling shop;

(24) “Skin care shop” means any place of business where any person performs or offers to perform exclusively aesthetics services for a fee or other
form of compensation; and

(25) “Student” means any person who is engaged in learning, performing or assisting in any of the practices of cosmetology under the immediate supervision of an instructor of cosmetology; however, for the purposes of this chapter, neither instructor trainees nor junior instructors shall be considered as students.

(b) The practice of aesthetics or the practice of cosmetology does not include any treatment or attempt to treat any abnormality or disease-related condition of the skin, skin disease process or aging process of the skin.

62-4-109. Persons and activities exempt.

(a) The following persons are exempt from this chapter:

(1) Persons and establishments engaged exclusively in massage, as defined by § 63-18-102;
(2) Duly registered barbers and technicians operating in duly registered barber shops only;
(3) Physicians and surgeons or trained nurses, trained nurses assistants, aides or similar personnel, acting solely in their professional capacities;
(4) Any person rendering cosmetology services in the person’s own home without charge to the recipient;
(5) Any person who demonstrates or applies, or both, cosmetics without charge in a retail establishment;
(6) Any person who engages in hair wrapping; provided, that the person posts a notice at the place of business indicating that the person is not licensed by the state board of cosmetology and barber examiners; and provided, further, that the person uses disposable instruments or implements that are sanitized in a disinfectant approved for hospital use or approved by the federal environmental protection agency. Before engaging in hair wrapping, a person shall attend sixteen (16) hours of training provided by a licensed school of cosmetology and shall receive a certificate indicating attendance at the training. The certificate shall be retained and displayed on request. The training shall consist of eight (8) hours concerning health and hygiene issues and eight (8) hours concerning relevant state law; and
(7) Any person whose occupation or practice is confined solely to shampooing.

(b) Nothing in this chapter shall be construed to apply to the educational activities conducted in connection with any special education program of any bona fide association of licensed cosmetologists from which the general public is excluded.

62-4-110. Application and qualifications for practicing or teaching — Fees.

(a) Any person who desires a cosmetologist’s license shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board;
(2) Satisfactory proof that the applicant has attained the age of at least sixteen (16) years; and
(3) Satisfactory proof that the applicant either:
(A) Has completed and passed a course of instruction of no less than one thousand five hundred (1,500) hours in practice and theory at a school of cosmetology; or

(B) Holds a valid Tennessee master barber registration and has completed three hundred (300) hours in a licensed school of cosmetology learning the fundamentals of cosmetology technique and pedicuring.

(b) Any person who desires a license to practice manicuring only shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant has attained the age of at least sixteen (16) years and has completed and passed a course of instruction of no less than six hundred (600) hours in the practice and theory of manicuring at a school of cosmetology.

(c) Any person who desires a license to instruct in a school shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant:

   (A) Is a high school graduate, evidenced by a certificate or diploma or possesses a general equivalency diploma (GED®);

   (B) Holds a valid cosmetologist’s, manicurist’s, aesthetician’s or natural hair stylist’s license issued by the board;

   (C) Has completed and passed a board-approved course in instructor training of at least three hundred (300) hours within a period of six (6) months as an instructor trainee or has served as a junior instructor for a minimum of one (1) year;

   (D) Has been licensed as a cosmetologist, aesthetician, manicurist, or natural hair stylist pursuant to this chapter for at least three (3) continuous years; and

   (E) Seeks to instruct only in the area in which the applicant is currently licensed.

(d) Any person who desires a license to practice aesthetics only shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant has attained the age of at least sixteen (16) years and has completed and passed a course of instruction of no less than seven hundred fifty (750) hours in the practice and theory of aesthetics at a school of cosmetology.

(e) [Deleted by 2017 amendment.]

(f) Any person who desires a natural hair styling license shall submit an application for examination to the board on the prescribed form. The application shall be accompanied by:

(1) A nonrefundable, nontransferable application/examination fee as set by the board; and

(2) Satisfactory proof that the applicant has attained the age of at least sixteen (16) years and has completed and passed a course of instruction of no
less than three hundred (300) hours in the practice and theory of natural hair styling at a school of cosmetology.

62-4-125. Health and safety rules and regulations.

(a) The board shall, with the approval of the department of health, promulgate rules of sanitation that it may deem reasonably necessary, with particular attention to the precautions for preventing the development and spread of infections and contagious diseases.

(b) Each school and shop shall have:
   (1) Adequate restroom facilities, except when located in a commercial building where such facilities are already provided; and
   (2) Separate entrances from entrances to adjoining residential or living quarters, if any.

(c) Where a school and a shop are operated in the same building, there shall be separate entrances and exits and separate restroom facilities for each business.

(d) It is unlawful:
   (1) For the owner or manager of any school or shop to permit any person to sleep in or use for residential purposes any room used wholly or partially as a school or shop; and
   (2) For any person, firm or corporation that holds a cosmetology, manicurist or aesthetician license to practice cosmetology outside a shop or school, or for any person, firm or corporation that holds a natural hair styling license to practice natural hair styling outside a shop or school, except:
      (A) In any nursing home;
      (B) In the residence of the person treated when the person is actually ill;
      (C) In any hospital or infirmary;
      (D) In a funeral establishment;
      (E) In a retail establishment, to demonstrate or apply, or both, cosmetics without charge;
      (F) At the site of television, motion picture, video or theatrical productions, photographic sessions or similar activities; or
      (G) In a licensed mobile shop.

(e) A manicurist may provide manicuring services to an ill, disabled or homebound individual, or to such individual’s caregiver, custodian or guardian, in the individual’s residence.

62-4-138. License for mobile shop.

(a) No person shall operate a mobile shop without a valid mobile shop license issued by the board. Application for the license shall be made upon application forms furnished by the board.

(b) The board shall issue a license for a mobile shop to an applicant who:
   (1) Holds a valid, current license for a shop that has a fixed location;
   (2) Pays an application fee in an amount set by the board by rule, not to exceed the cost of administering this section;
   (3) Pays an initial license fee in the amount set by the board by rule; and
   (4) Undergoes and passes an initial inspection.

(c) A license for a mobile shop shall be subject to renewal at the same time that the licensee’s shop license is subject to renewal pursuant to § 62-4-118(h).
The renewal fee for a license for a mobile shop shall be set by the board by rule.

(d) A mobile shop for which a license is issued shall be subject to all of the health and safety requirements that apply to shops that have a fixed location under this chapter and the rules promulgated pursuant thereto; provided, that a mobile shop shall not be required to have a restroom and that the board may promulgate rules allowing or requiring mobile shops to have equipment different from shops with a fixed location.

(e)(1) The board may either refuse to issue or renew or may suspend or revoke any license for a mobile shop for any of the reasons in § 62-4-127.

(2) The board shall revoke any license for a mobile shop if the licensee's license for a shop that has a fixed location expires or is revoked.

(3) If a licensee's license for a shop that has a fixed location is suspended, the board shall also suspend any license that has been issued to such licensee for a mobile shop for the same period of time.

62-5-313. Requirements for operation.

(a) Every person, firm, partnership or corporation, at each and every place of business conducted by that person, firm, partnership or corporation, in the business or practice of funeral directing shall have a fixed place of business or establishment devoted to the care and preparation of dead human bodies and shall have a licensed funeral director in charge of each such place of business; and no employee or member of the firm or corporation shall engage in the care, preparation, disposal or burial of dead human bodies and the management of funerals, nor discharge the duties of a funeral director, unless the employee or member is a licensed funeral director in accordance with this chapter. Nothing in this chapter shall be interpreted to prohibit the use of unlicensed assistants when they are under the direction and supervision of a licensed funeral director.

(b)(1) A license to operate a funeral establishment shall not be issued by the board unless the applicant has at least one (1) full-time person duly licensed for the practice of funeral directing and a duly licensed embalmer in attendance during the preparation of the dead remains.

(2) Each funeral establishment must have available for its use a preparation room equipped with tile, cement or composition floor, necessary drainage and ventilation and necessary instruments and supplies for the preparation of embalming dead human bodies for burial, transportation or other disposition.

(c) Every funeral establishment licensed under this chapter must be managed and supervised by a licensed funeral director, responsible for each funeral establishment.

(d)(1) Prior to or at the time of placing a dead human body in a casket for interment or entombment, each funeral establishment shall securely affix or attach to the body, preferably upon the ankle, a permanent identification device approved by the board, containing the decedent’s name, date of birth, and date of death. If that information is not available to the funeral establishment, then a permanent identification device stating that the information is not available shall be affixed or attached to the body.

(2) If a dead human body is to be cremated, then a permanent identification device approved by the board, containing the decedent’s name, date of birth, and date of death shall be placed in the crematory urn before the
remains are placed in the urn. If the information is not available to the funeral establishment, then a permanent identification device stating the information is not available shall be placed in the crematory urn before the remains are placed in the urn.

(3) No funeral establishment shall solicit or collect a fee for the affixing or attaching of a permanent identification device pursuant to this section.

(4) Failure to comply with this subsection (d) is a disciplinary offense and is punishable as provided in § 62-5-317.

(e) Each funeral establishment must have its current license available for inspection in the office of the funeral establishment.

(f) Nothing in this chapter prohibits the use of a licensed funeral establishment to prepare any remains for disposition or to perform, or offer to perform, commemorative services, if the commemorative services are performed in compliance with this chapter and applicable provisions in title 68, and rules promulgated pursuant to this chapter and title 68. For the purposes of this subsection (f), “commemorative services” means any ceremony for the dead prior to burial, cremation, or any other legal form of final disposition.

62-5-403. Part definitions.

As used in this part, unless the context requires otherwise:

(1) “Cash advance item” means any item obtained from a third party and paid for by the funeral provider on the purchaser’s behalf. Cash advance items may include, but are not limited to, sales tax, certified copies of death certificates, clergy honoraria, flowers, musicians or singers, obituary notices and gratuities;

(2) “Commissioner” means the commissioner of commerce and insurance or the commissioner’s designee;

(3) “Department” means the department of commerce and insurance;

(4) “Funeral merchandise”:

(A) Means merchandise, whether sold by a funeral establishment, cemetery company, or any other individual, partnership, company, corporation, or association, intended for use in the final disposition of a dead human body;

(B) Includes caskets and containers designed to be used in the grave around the casket or around cremated remains, commonly known as urns, urn vaults, outer burial containers, burial vaults, grave boxes, and grave liners; and

(C) Does not include cemetery merchandise as defined in § 46-1-102;

(5) “Guaranteed pre-need funeral contract” means the pre-need seller, where the contract has been funded in accordance with its terms, shall furnish at the time of death of the contract beneficiary, at no additional charge to the next of kin, the estate of the deceased, or other individual or entity responsible for the funeral, the merchandise and services selected, or the equivalent if the specific merchandise is not readily available, in the pre-need funeral contract. The only adjustment in the charge to the next of kin, the estate of the deceased or other individual or entity responsible for the funeral shall be for cash advance items. The pre-need seller shall be obligated to deliver the agreed upon merchandise and services under a fully funded pre-need funeral contract for the available funding at the time of death of the contract beneficiary. Nothing in this section shall be construed
to prohibit the pre-need seller from receiving the available funding up to the seller's current retail price for the merchandise and services at the time of death of the contract beneficiary;

(6) “Insurance company” means any corporation, limited liability company, association, partnership, society, order, individual or aggregation of individuals engaging in or proposing or attempting to engage as principals in any kind of insurance business, including the exchanging of reciprocal contracts between individuals, partnerships, and corporations;

(7) “Nonguaranteed pre-need funeral contract” means, in addition to any cash advance items, the pre-need seller may charge the individual or entity responsible for the funeral any difference between the available funding and the seller's current retail price at the time of death of the contract beneficiary for the merchandise and services selected in the pre-need funeral contract;

(8) “Prearrangement insurance policy” means a life insurance policy, annuity contract, or other insurance contract, or any series of contracts or agreements in any form or manner, issued by an insurance company, that, whether by assignment or otherwise, funds a pre-need funeral contract, the insured or annuitant being the person for whose funeral service the funds were paid;

(9)(A) “Pre-need funeral contract” means any agreement, contract or plan requiring the payment of money in advance, whether in a lump sum or installments and whether funded by a pre-need funeral trust or prearrangement insurance policy or combination of a pre-need funeral trust and a prearrangement insurance policy, that is made or entered into with any person, association, partnership, firm or corporation for the final disposition of a dead human body, for funeral or burial services or for the furnishing of personal property or funeral or burial merchandise, wherein the use of the personal property or the funeral or burial merchandise or the furnishing of professional services by a funeral director or embalmer is not immediately required.

(B) Except as otherwise provided in § 62-5-406, “pre-need funeral contract” does not mean the furnishing of cemetery merchandise and services otherwise regulated under title 46, chapter 1, part 2;

(10) “Pre-need funeral contract beneficiary” means the person upon whose death the pre-need funeral contract will be performed. This person may also be the purchaser of the pre-need funeral contract;

(11) “Pre-need funeral funds” means all payments of cash, or its equivalent, made to a pre-need seller or pre-need sales agent upon any pre-need funeral contract;

(12) “Pre-need funeral trust” means funds set aside in a trust account held by a trustee to provide for a pre-need funeral contract;

(13) “Pre-need sales agent” means an individual who has applied for and has been granted, or who engages in conduct requiring, registration to sell pre-need funeral contracts on behalf of a pre-need seller pursuant to this part;

(14) “Pre-need seller” means a funeral establishment or other individual, firm, partnership, company, corporation, or association that has applied for and has been granted, or that engages in conduct requiring, registration to sell pre-need funeral contracts pursuant to this part; and

(15)(A) “Trustee” means a state or national bank, federally chartered savings and loan association, state chartered trust company, or, in the
reasonable discretion of the commissioner upon the terms and conditions that the commissioner may require, a securities brokerage firm licensed and in good standing with appropriate state and federal regulatory authorities.

(B) Prior to July 1, 2011, “trustee” may also mean a certified public accountant who the commissioner determines meets all of the following requirements:

(i) The certified public accountant has served during the 2007 calendar year as the trustee for a trust account established pursuant to this part;

(ii) The certified public accountant is covered by errors and omissions liability insurance in an amount equal to or greater than the amount held in trust; and

(iii) The certified public accountant has complied with all previous reporting requirements required by statute and rules of the commissioner;

(C) On or after July 1, 2011, every trustee of every trust account shall be a trustee as set forth in subdivision (14)(A).


(a) In order to obtain a pre-need seller registration or a pre-need sales agent registration, an individual, funeral establishment or other individual, firm, partnership, company, corporation, or association shall:

(1) File an application with the department on a form prescribed by the commissioner; and

(2) Pay a nonrefundable filing fee in an amount set by the commissioner.

(b) A pre-need seller registration shall be valid only at the address provided in the application or at a new address approved by the commissioner.

(c) All registrations issued under this part shall be valid for two (2) years.

(d) All registrations become invalid unless renewed.

(e) The commissioner shall send a renewal notice and the renewal of a registration may be effected at any time during the two (2) months preceding the date of expiration upon submission of an application to the commissioner on the prescribed form, accompanied by a renewal fee as set by the commissioner.

(f) No later than seventy-five (75) days after the end of the pre-need seller's fiscal year, pre-need sellers and trustees shall file an annual report with the commissioner on forms prescribed by the commissioner. The report shall include a summary of the information contained in the accounts, books, and records required to be kept pursuant to rules promulgated by the commissioner, and other information as the commissioner may reasonably require. An additional report shall not be required based on the establishment of trusts pursuant to this title and title 46. In such instance, only one (1) report shall be required.

62-5-406. Filing of pre-need funeral contract — Contract form requirements — Revocable and irrevocable contracts.

(a)(1) No pre-need funeral contract shall be offered in this state until a copy of the contract has been issued by the commissioner for general use.

(2) If no contract has been issued by the commissioner pursuant to subdivision (a)(1), then no pre-need funeral contract shall be offered in this
state until a copy of the contract has been filed with and approved by the commissioner. If the commissioner does not disapprove the contract within sixty (60) days after receipt of the request for approval, the contract shall be deemed approved. The commissioner may disapprove a previously approved pre-need funeral contract if the pre-need funeral contract violates this section upon giving notice and an opportunity for a hearing to the pre-need seller.

(b) Each pre-need contract form shall:

(1) Be written in clear and understandable language printed in an easy-to-read type size and style;

(2) Contain space to include the name, address, telephone number, and registration number of the pre-need seller obligated to provide the services under the contract terms, and all the information must be completed before the contract is signed by the purchaser;

(3) Clearly identify whether the contract is a guaranteed pre-need funeral contract or a non-guaranteed pre-need funeral contract; and

(4) If the contract is funded by a pre-need funeral trust, the pre-need funeral contract shall state whether the pre-need funeral trust it establishes is revocable or irrevocable.

(A) If the pre-need funeral trust is irrevocable, the pre-need funeral contract shall state on its face and in bold type the following words: THE PRE-NEED FUNERAL TRUST ACCOUNT ESTABLISHED BY THIS CONTRACT IS IRREVOCABLE, AND THE FUNDS PAID HEREUNDER ARE NOT REFUNDABLE. ACCUMULATED TRUST PRINCIPAL AND INTEREST ARE FREELY TRANSFERABLE TO SATISFY FUNERAL EXPENSES AT ANY LICENSED FUNERAL ESTABLISHMENT AS PROVIDED BY LAW.

(B) If the pre-need funeral trust is revocable, the purchaser of the merchandise or services under the agreement, contract or plan shall be entitled to receive any or all of the payments made and any earnings or interest on the payments, less any applicable fees and expenses permitted by this part, upon demand in writing on the pre-need seller and the trustee. Absent gross negligence or willful misconduct by the trustee, payment by the trustee of the amount held in trust, less any applicable fees and expenses permitted by this part, shall relieve the trustee of further liability to the purchaser in connection with the trust.

c) No modification of the form, terms, or conditions of the pre-need contract may be made without the prior written approval of the commissioner.

d) No pre-need funeral contract shall provide for the funeral establishment, pre-need seller, or pre-need sales agent to receive any benefits from a prearrangement insurance policy or moneys from a pre-need funeral trust other than the amount of payment for the merchandise and services provided by the funeral establishment. This subsection (d) shall not prohibit the payment of commissions authorized to be paid under title 56, chapter 6.

e) This section shall apply only to pre-need funeral contracts executed subsequent to January 1, 2008.

(f) A pre-need seller that is a cemetery company may offer a pre-need funeral contract that covers cemetery merchandise as defined in § 46-1-102, or a pre-need funeral contract that covers both funeral merchandise and cemetery merchandise, on a contract issued by the commissioner or, if the commissioner has not issued a contract, on a contract approved by the
commissioner. The pre-need seller that is a cemetery company shall comply with the requirements provided in title 46, chapter 1, for selling cemetery merchandise.

62-5-407. Pre-need funeral contracts funded by trusts.

(a) Every pre-need seller engaged in the business of selling pre-need funeral contracts funded by a trust shall establish a pre-need funeral trust fund. The trust fund shall be established by executing a written trust agreement with a trustee as defined in § 62-5-403; provided, that a pre-need seller may change the trustee of its trust fund by providing written notice to the commissioner no later than thirty (30) days prior to the change, along with evidence sufficient to the commissioner that the trustee will be able to comply with the requirements of this part. If the commissioner determines that the evidence submitted is insufficient to ensure that the trustee will be able to comply with the requirements of this part, the commissioner may refuse to allow the pre-need seller to change the trustee. If the commissioner does not object to the change of trustee within sixty (60) calendar days of receiving a request, the current trustee shall have not less than ninety (90) calendar days from the date it receives notice of the proposed change to transfer all trust assets held by the trustee to the successor trustee.

(b) If the pre-need funeral contract purchaser chooses to fund the pre-need funeral contract by a trust deposit or deposits, the pre-need seller shall deposit all funds with the trustee, to be held in trust, by the twentieth day of the month following the month of receipt. Upon finding that a pre-need seller has failed to appropriately and timely deposit into any trust, the commissioner may, in addition to or in lieu of any other disciplinary action, require that deposits be made within a shorter time frame, after receipt of the funds, for a period not more than two (2) years after the finding of a violation. The pre-need seller, at the time of making the deposit, shall furnish to the trustee the name of each pre-need funeral contract beneficiary and the amount of payment on each for which the deposit is being made. The trustee may establish a separate trust fund for each pre-need funeral contract or a single trust fund for all pre-need funeral contracts issued by a pre-need seller. The trust accounts shall be carried in the name of the pre-need seller, but accounting records shall be established and maintained for each individual pre-need funeral contract beneficiary showing the amounts deposited and invested, and interest, dividends, increases, and accretions earned.

(c) Funds deposited in trust under a pre-need funeral contract may, with the written permission of the pre-need funeral contract purchaser and written approval of the commissioner, be withdrawn by the trustee and used to purchase a prearrangement insurance policy. The trustee shall disclose, in writing, the terms of the prearrangement insurance policy to the pre-need funeral contract purchaser. Except as provided in this subsection (c), no funds deposited in trust with a trustee pursuant to this section shall be withdrawn by the trustee to purchase a prearrangement insurance policy.

(d) No pre-need seller, affiliate of a pre-need seller, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business may act as trustee for any pre-need funeral trust. No pre-need seller, affiliate of a pre-need seller, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business may share in the responsibilities of or
direct the actions of the trustee of a pre-need funeral trust fund.

e) It is unlawful to loan pre-need funeral trust funds to a pre-need seller, an affiliate of a pre-need seller, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business. Furthermore, the pre-need seller’s interest in the trust shall not be pledged as collateral for any loans, debts, or liabilities of the pre-need seller and shall not be transferred to any person without the prior written approval from the commissioner and the trustee.


(a) Moneys held in a pre-need funeral contract trust shall be held in trust, both as to principal and income earned on the principal, and shall remain intact, except that the trustee shall have the right to use trust fund income to pay applicable taxes and reasonable expenses related to the administration of the trust, including reasonable trustee’s fees for services rendered pursuant to the terms of the applicable trust agreement or to others for the preparation of fiduciary tax returns. In no event shall the principal be diminished.

(b) The pre-need seller shall be liable to the trustee and to third parties to the extent that income from the trust is not sufficient to pay the expenses of the trust.

(c) The trustee shall make regular valuations of assets it holds in trust and provide a report of the valuations to the pre-need seller at least annually.

(d) The trustee shall invest the moneys paid and placed in a pre-need funeral contract trust, by exercising the judgment and care under the circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

(e) Except as otherwise provided by this part, all payments made by the purchaser of a pre-need funeral contract shall remain trust funds with a trustee or as paid insurance premiums with an insurance company, as the case may be, until the death of the pre-need funeral contract beneficiary and until full performance of the pre-need funeral contract.

62-5-414. Appointment of receiver — Jurisdiction of court — Other legal remedies — Plan for reorganization, consolidation, conversion, merger or other transformation — Pre-need funeral consumer protection account — Pre-need funeral consumer protection fee.

(a) The Davidson County chancery court, upon the petition of the commissioner, may appoint the commissioner as receiver to take charge of, control and manage a pre-need seller upon one (1) or more of the following grounds:

1) The pre-need seller has not maintained trust funds received from contracts in the manner required by this part;

2) The pre-need seller has allowed its registration to lapse, or the registration has been revoked;

3) The pre-need seller is impaired or insolvent;

4) The pre-need seller has refused to submit its books, records, accounts, or affairs to examination by the commissioner;

5) There is reasonable cause to believe that there has been embezzlement, misappropriation, or other wrongful misapplication or use of trust
funds or fraud affecting the ability of the pre-need seller to perform its obligations under pre-need funeral contracts sold or assumed by the pre-need seller;
(6) The pre-need seller has failed to file its annual report; or
(7) The pre-need seller cannot or will not be able to meet all of its contractual obligations when they come due.
(b) For the purpose of this section, Davidson County chancery court shall have exclusive jurisdiction over matters brought under this section, and that court is authorized to make all necessary or appropriate orders to carry out the purposes of this part.
(c) Receivership proceedings instituted pursuant to this part shall constitute the sole and exclusive method of liquidating, rehabilitating, or conserving a pre-need seller, and no court shall entertain a petition for the commencement of the proceedings unless the petition has been filed in the name of the state on the relation of the commissioner.
(1) The commissioner shall commence any such proceeding by application to the court for an order directing the pre-need seller to show cause why the commissioner should not have the relief prayed for in the application.
(2) On the return of the order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the prepaid contract purchaser, contract beneficiaries, or the public may require.
(d) The commissioner may appoint one (1) or more special deputies, who have all the powers and responsibilities of the receiver granted under this section and the commissioner may employ such counsel, clerks and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks and assistants, and all expenses of taking possession of the pre-need seller and of conducting the proceedings, shall be fixed by the commissioner, with the approval of the Davidson County chancery court, and shall be paid out of the funds or assets of the pre-need seller. The persons appointed under this subsection (d) shall serve at the pleasure of the commissioner.
(e) The receiver may take such action as the receiver deems necessary or appropriate to reform and revitalize the pre-need seller. The receiver has all the powers of the owners and directors, whose authority shall be suspended, except as they are redelegated by the receiver. The receiver has full power to direct and manage, to hire and discharge any employees subject to any contractual rights they may have, and to deal with the property and business of the pre-need seller.
(f) If it appears to the receiver that there has been criminal or tortious conduct, or breach of any contractual or fiduciary obligation detrimental to the pre-need seller by any owner, officer, director or other person, the receiver may pursue all appropriate legal remedies on behalf of the pre-need seller.
(g) If the receiver determines that reorganization, consolidation, conversion, merger or other transformation of the pre-need seller is appropriate, the receiver shall prepare a plan to effect those changes. Upon application of the receiver for approval of the plan, and after such notice and hearings as the Davidson County chancery court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the receiver shall carry out the plan.
There is established within the general fund a pre-need funeral consumer protection account, referred to as the “pre-need funeral account” in this section. Funds received by the commissioner under this section, up to two million five hundred thousand dollars ($2,500,000) or a higher amount as determined by the commissioner by rule, shall be deposited into the pre-need funeral account and held solely for the purposes related to the pre-need registration program and any receivership action initiated by the commissioner against a pre-need seller pursuant to this section.

Once the balance in the account exceeds two million five hundred thousand dollars ($2,500,000) or a higher amount as determined by the commissioner by rule, an indigent fund shall be established within the general fund to be administered by the commissioner. Any funds received under this section by the commissioner which are in excess of such amount shall be deposited into the indigent fund. If the balance of the pre-need funeral account is reduced below such amount, no funds shall be deposited into the indigent fund until the pre-need funeral account balance is restored to such amount.

An indigent burial fund shall be established for the purpose of reimbursing funeral homes that provide funeral services to Tennessee residents who are indigent.

Funds shall only be expended for a person who was receiving state financial assistance on the date such indigent person died.

All funds in excess of two million five hundred thousand dollars ($2,500,000) shall not revert to the general fund of the state, but shall remain available to be allocated and used solely for such indigent funerals provided by funeral homes.

Interest accruing on investments and deposits of the fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

Moneys in the fund shall be invested in accordance with § 9-4-603.

The amount of reimbursement shall be based on available funds in the indigent burial fund at the time a request for reimbursement is filed by a funeral home.

A funeral home which provides funeral services to those Tennessee residents who are indigent may file an application with the commissioner, in a manner established by the commissioner, requesting reimbursement from the indigent burial fund for amounts expended by the funeral home in providing such services. The funeral home shall be required to file documentation verifying that the expenses were for providing such services and for no other purposes.

In accordance with the commissioner’s rule-making authority pursuant to § 62-5-413(b), the commissioner shall promulgate rules defining indigency for purposes of eligibility for reimbursement, setting a maximum amount for reimbursement per burial, the manner in which claims shall be submitted and paid, and any other rules necessary for the proper administration of this program.

Moneys within the pre-need funeral account shall be invested by the state treasurer in accordance with § 9-4-603 for the sole benefit of the pre-need funeral account.

No pre-need registration renewal shall be issued unless the applicant...
pays, in addition to the renewal fee, a pre-need funeral consumer protection fee of twenty dollars ($20.00) for every pre-need funeral sales contract entered into during the preceding renewal period. If the pre-need funeral sales contract covers both funeral merchandise and cemetery merchandise as defined in § 46-1-102, then a pre-need seller, other than a cemetery company paying a consumer protection fee for such a contract pursuant to § 46-1-105, shall pay only one (1) consumer protection fee for the contract, which shall be credited to the pre-need funeral account.

(k) The funds received pursuant to this section shall be used to fund the pre-need registration program and any receivership action initiated by the commissioner against a pre-need seller to the extent the funds or assets of the pre-need seller are not adequate to fund the receivership.

(l) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the commissioner or the department or its employees or agents for any action taken by them in the performance of their power and duties under this section.


(a) Every licensed embalmer holding a Tennessee license shall submit with the renewal application evidence of satisfactory completion of a continuing education program in mortuary science approved by the board.

(b) Every licensed funeral director holding a Tennessee license shall submit with the renewal application evidence of satisfactory completion of a continuing education program in funeral directing approved by the board.

(c) Each licensee holding a Tennessee license shall submit with the license renewal application satisfactory proof of completion of a minimum of ten (10) hours of continuing education coursework approved by the board. Compliance with the continuing education coursework is mandatory for renewal of a license. Of the ten (10) hours of continuing education coursework, five (5) hours must be attended in person. For purposes of this subsection (c), “attended in person” means the continuing education coursework is completed by the licensee in the physical presence of the provider of the coursework or is completed by the licensee through an interactive virtual program that requires participants to confirm their presence during the program.

(d) Any licensee who is sixty-five (65) years of age or older or who has held a license continuously for ten (10) years on or before October 1, 2000, shall be exempt from the continuing education requirements in this chapter. In addition, a licensee who demonstrates to the board on the prescribed form that the licensee is disabled and is not practicing either funeral directing or embalming is exempt from the continuing education requirements set forth in this chapter.

(e) The board, for good cause, shall have the power to excuse licensees from the continuing education requirements set forth in this chapter.

(f) Continuing education credit or credits may be obtained by attending and participating in continuing education courses or workshops approved by the board.

(g) No continuing education hours from one licensing period may be carried over to a subsequent licensing period.

62-5-709. Release of remains to selected funeral establishment.

A funeral establishment that has custody of the remains of a deceased
person, but is not the establishment selected by the persons named in § 62-5-703 with the right of disposition to provide funeral services, shall release the remains to the funeral establishment selected by the persons named in § 62-5-703 with the right of disposition during normal business hours unless otherwise agreed to by the two (2) funeral establishments. The receiving funeral establishment shall be responsible for the cost of any merchandise or services provided by the initial funeral establishment, which shall be payable to the initial funeral establishment at the time of release. However, the cost of the merchandise or services provided shall not exceed the prices for the merchandise or services listed on the general price list of the initial funeral establishment.

62-6-107. Executive director — Other staffing.

(a) The board shall appoint an executive director to provide all administrative functions for the board. The compensation of the executive director shall be fixed by the board and the director shall serve at the pleasure of the board.

(b) The board shall retain and establish the qualifications and compensation for investigators, inspectors, and other staff requiring professional qualifications. All members of the board’s staff requiring professional qualifications shall serve at the pleasure of the board.

(c) Any expenditure by the board under this section shall be subject to approval by the commissioner of finance and administration, pursuant to the board’s annual budget submitted to the commissioner of commerce and insurance and approved by the commissioner of finance and administration.

62-6-111. License and examination — Transfer of license.

(a)(1)(A) Anyone desiring to be licensed as a contractor for this state shall make written application to the board on forms prescribed by the board and shall furnish the board with an affidavit stating that the applicant is not currently performing any construction work and has not offered to engage in any construction work where the amount of the applicant’s contract exceeds twenty-five thousand dollars ($25,000) or, in the case of a limited licensed electrician, where the amount of the applicant’s contract is less than twenty-five thousand dollars ($25,000). The application shall be accompanied by an application fee as set by the board. The application shall also be accompanied by evidence of the applicant’s current workers’ compensation insurance coverage. Failure to provide evidence of insurance coverage shall make the applicant ineligible for licensure by the board until evidence of insurance coverage is provided. Any application for initial licensure or for renewal of licensure also shall be accompanied by an affidavit affirming that the applicant maintains general liability insurance and workers’ compensation insurance and specifying the amount of the insurance as well as any other information the board may require.

(B)(i) Anyone desiring to be licensed as a contractor for this state who resides in a state that does not practice reciprocity with licensees of the Tennessee board for licensing contractors shall make written application on forms prescribed by the board and shall attach an affidavit to the application stating that the applicant is not currently performing any construction work and has not offered to engage in any construction work in this state in which the amount of the applicant’s contract
exceeds two thousand five hundred dollars ($2,500) or, in the case of a limited licensed electrician, in which the amount of the applicant’s contract exceeds twenty-five thousand dollars ($25,000). The application shall be accompanied by an application fee as set by the board. The application shall also be accompanied by evidence of the applicant’s current workers’ compensation insurance coverage. Failure to provide the evidence of insurance coverage shall make the applicant ineligible for licensure by the board until the evidence of insurance coverage is provided. Any application for initial licensure or for renewal of licensure also shall be accompanied by an affidavit affirming that the applicant maintains general liability insurance and workers’ compensation insurance and specifying the amount of the insurance as well as any other information the board may require.

(ii) Notwithstanding any reciprocity for contractors which may otherwise exist between states, any person desiring to perform contracting services in this state as a licensed masonry contractor whether residing in this state or another state shall not be authorized to perform any such services unless the person takes and passes the masonry examination required pursuant to subsection (a)(2).

(2) Anyone desiring to be licensed as a contractor in this state shall take a written examination to determine the applicant’s qualifications. This examination may be given orally at the discretion of the board if a written examination is precluded by reason of disability. Each applicant shall pay an examination fee for each written or oral examination. If the results of the examination constitute a passing score, then the applicant shall make a written application to the board in accordance with subdivision (a)(1).

(3) If the results of the examination of any applicant are satisfactory to the board, then it shall issue to the applicant a certificate authorizing the applicant to operate as a contractor in this state. The board shall state the construction classifications in which the applicant is qualified to engage as a contractor and for each classification shall list the monetary limitations on the classification as determined by the board.

(4) Whenever any applicant is advised to appear before the board for an interview and fails to appear at the scheduled time and place without notifying the board at least three (3) days in advance, the applicant shall pay an additional fee as set by the board before being rescheduled for an interview. In the event of failure to appear for an interview on three (3) separate occasions, a new application and fee are required.

(b)(1) The board shall promulgate rules and regulations that establish uniform criteria to govern issuance by the board of the classifications and monetary limitations required by subdivision (a)(3). The board shall have discretionary authority in individual cases to modify the criteria for an applicant if the public safety and welfare clearly require modification and if the board furnishes the applicant with a written statement justifying modification.

(2) The criteria so established by the board shall include, but not be limited to, a letter of reference from a past client, employer of the applicant or codes administration official, as well as a financial statement of the applicant.

(3) If an applicant requests a monetary limitation of greater than three million dollars ($3,000,000), the applicant’s financial statement shall be audited and attested to by a licensed public accountant or certified public
accountant.

(4) The financial statement of any applicant requesting a monetary limitation of three million dollars ($3,000,000) or less shall be either reviewed or audited by a licensed public accountant or certified public accountant. The board may, in its discretion, require the financial statement of the applicant be audited and attested to by a licensed public accountant or certified public accountant.

(c) The issuance by the board of a certificate of license authorizing the licensee to engage in any major construction classification or classifications of contracting shall not authorize the licensee to engage in twenty-five thousand dollars ($25,000) or more of any other major construction classification or specialty classification under the major construction classification unless the licensee is additionally licensed in the other major construction classification or specialty classification under the major construction classification.

(d) A contractor may bid on a contract requiring work in a classification or classifications other than the one in which the contractor is licensed if and only if the contractor has a commercial building contractor’s license or if the contractor’s license will permit the contractor to perform at least sixty percent (60%) of the bid amount or price of the work for the project being bid or priced; however, the contractor may not actually perform any work in excess of twenty-five thousand dollars ($25,000) or, in the case of a limited licensed electrician, where the amount of work is less than twenty-five thousand dollars ($25,000) in any classification unless the contractor has a license to perform work in that classification.

(e)(1) Whenever a partnership licensed as a contractor dissolves, no former member of the partnership shall further undertake contracting before filing a new application with the board and receiving a license.

(2) In the case of a merger, purchase by nonstockholders of the majority interest or reorganization pursuant to a bankruptcy proceeding of any licensee engaged in contracting, the licensee shall make written application to the board and obtain a new license before undertaking contracting.

(f)(1) Upon application of any individual who was formerly a partner in a dissolved partnership, the board shall transfer to the individual the license formerly held by the partnership upon a showing that:

(A) The individual was a partner in a dissolved partnership;

(B) The current financial statement of the individual meets the requirements promulgated by the board. If the financial statement fails to meet the requirements, the board may in its sole discretion modify the monetary limitation prior to transfer; and

(C) All liabilities of the partnership were satisfied prior to dissolution or will be satisfied by the individual.

(2) The board shall collect a fee as set by the board for transferring the license.

(g)(1) The board shall transfer, upon application and payment of a fee as set by the board, by any proprietorship or partnership that subsequently incorporates as a Tennessee corporation, the license formerly held by the proprietorship or partnership to the corporation upon a showing that:

(A) The officers or directors or management of the corporation were the owners or managers of the proprietorship or partnership;

(B) A copy of the corporation’s charter has been filed with the board;

(C) The partnership or proprietorship is currently in good standing
with the board;

(D) The current financial statement of the corporation meets the requirements promulgated by the board. If the financial statement fails to meet the requirements, the board may in its sole discretion modify the monetary limitation prior to transfer; and

(E) All liabilities of the proprietorship or partnership were satisfied prior to incorporation or will be satisfied by the corporation.

(2) The board shall develop an application for the transfer of licenses.

(h) Notwithstanding § 56-1-302(a)(7) to the contrary, all revenues generated from licensing fees, penalties, or interest shall be allocated solely to the board for licensing contractors to be utilized for:

(1) The administration and enforcement of this part; and

(2) The purposes set forth in the Go Build Tennessee Act, compiled in title 4, chapter 41.

(i)(1) Notwithstanding any law to the contrary, the board may issue a license to any person who establishes the person's competency in any classification by successfully passing a proficiency test or examination for measurement of industry expertise in such work that is administered by the board; and the license shall authorize the licensee to engage in contracting in this state or any of its political subdivisions.

(2) The licensee shall be eligible to contract for such work in any county or municipality upon:

(A) Exhibiting evidence of a current certificate of license to the appropriate local officials;

(B) Paying any local licensing fees in effect on May 8, 1992; and

(C) Paying any inspection or permit fees customarily required by any county or municipality for such work. No county or municipality shall require the state licensee or its employees to pass any county or municipal test or examination; nor shall a county or municipality impose any additional requirements upon the state licensee or its employees, nor in any way discriminate against the state licensee or its employees on the basis of the licensee's nonresidency within the county or municipality.

(j)(1) Notwithstanding any law to the contrary, the board may issue a license as a limited licensed electrician to any individual without an examination as required by this part, except as provided in subdivision (j)(3), if the individual makes an application to the board in which the following information is provided:

(A) On September 1, 2000, the applicant was registered in accordance with § 68-102-150; and

(B) Evidence that all fees and taxes relative to the operation of the applicant’s electrical work have been paid to the appropriate agencies when the application is filed under this subsection (j); or

(C) A current license or certificate issued by any county or municipality of this state prior to September 1, 2000, that is evidence that the applicant had by examination by an official of the county or municipality demonstrated the qualifications required to perform the electrical contract work within its jurisdiction and was actively engaged in that business on September 1, 2000.

(2) An application for a license under subdivision (j)(1)(A), (j)(1)(B) or (j)(1)(C) shall be filed with the board by July 1, 2001. If a license issued to a limited licensed electrician pursuant to subdivision (j)(1)(A), (j)(1)(B) or
(j)(1)(C) is not periodically renewed as provided by this part, then the limited licensed electrician shall be eligible for a license only after the satisfactory completion of the examination required by the board for initial applications.

(3) Any individual who is licensed as a limited licensed electrician under subdivisions (j)(1)(A) and (B) shall be required to have satisfactorily completed the examination of the board to engage in business as a limited licensed electrician in any county or municipality that is within subdivision (j)(1)(C).

(4) Any person who performs electrical work and who is subject to licensure as a limited licensed electrician shall apply to the board for a license. To receive a license, the applicant shall pay a fee as set by the board for the license and shall pass an examination prescribed by the board. The board may administer the examination or may contract for the administration of the examination.

(5) Notwithstanding any provision of this part to the contrary, a license as a limited licensed electrician shall not be required in any municipality or county that issues licenses to persons who perform electrical work in the municipality or county.

(6) Any limited licensed electrician requesting an electrical inspection must first have a license from the board for licensing contractors as required by § 62-6-103.

(7) Any person with knowledge of faulty electrical work performed by a limited licensed electrician must report the electrician to the state board for licensing contractors, which may initiate proceedings against the electrician for the faulty work.

(8) The board for licensing contractors may revoke or suspend the license of a limited licensed electrician for faulty electrical work performed by the licensee.

(9) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any contested case arising under this section.

(10) The state fire marshal and board for licensing contractors shall formulate a system for inspectors to report to the board any problems they may encounter with the workmanship of a limited licensed electrician. The system shall include the use of inspectors who are employed by the board under § 62-6-107(b).

(11) Any person who holds a current, unexpired license as a limited licensed electrician issued by the board shall be deemed to have met the registration requirements of § 68-102-150.

(k)(1) A licensee may request the board to consider revision of the licensee’s classification or classifications or monetary limitation or limitations, or both, at any of its regular meetings. The request shall be made by letter, which shall be accompanied by financial, equipment and experience statements relative to the classification request accurate as of no more than twelve (12) months prior to the date of the request. The request must be received in the office of the board by the last day of the month before the month in which it is to be considered.

(2) If an applicant requests a change in monetary limitation to an amount of three million dollars ($3,000,000) or less, the applicant shall submit a financial statement that has been reviewed or audited by a licensed public accountant or certified public accountant. If an applicant requests a change
in monetary limitation to an amount greater than three million dollars ($3,000,000), the applicant shall submit a financial statement that has been audited and attested to by a licensed public accountant or certified public accountant.

(3) The board reserves the right to require examination pursuant to a request for change of classification. The board further reserves the right to consider a request for change of classification or limitation at any time, if consideration of the request at the regularly scheduled meeting would cause an undue hardship on the owner and be in the best interest of the public safety and welfare.

(4) Increases within the first year will not be allowed without special permission from the board.

(l) Notwithstanding any other law, rule or regulation to the contrary, to qualify for the Tennessee mechanical plumbing (CMC-A) license examination, a person must have three (3) years’ experience as a plumber prior to taking the examination or have an engineering degree in plumbing or in a mechanical field.

(m) The board shall deny any application for licensure as a contractor if the board determines that the name under which the applicant will be trading is identical with the name being used by an existing licensee, or is so nearly similar to the name being used by an existing licensee that it is likely to cause confusion on the part of the public at large. This subsection (m) shall not apply to any applicant who has acquired an exclusive right to use the name as a registered trademark pursuant to 15 U.S.C. § 1051.

62-6-112. License classifications — Specialty classifications — Contractor’s authority to bid and contract.

(a) There shall be nine (9) major construction classifications in which a contractor may apply for a license, the major classifications being:

1. Commercial building construction;
2. Industrial construction;
3. Heavy construction;
4. Highway, railroad and airport construction;
5. Municipal and utility construction;
6. Mechanical construction;
7. Electrical construction;
8. Environmental and special construction; and

(b) The board shall promulgate by rules or regulations specialty classifications required under each major classification set out in subsection (a). Issuance of a license by the board to a contractor in any major classification automatically includes issuance of a license to the contractor in all specialty classifications included under the major classification.

(c) A contractor may obtain a license in any of the specialty classifications that the board by rule or regulation may promulgate under each major classification, but the license in a specialty classification allows the contractor to bid, contract for or perform contracting work in that specialty classification only.

(d) A contractor may not be licensed in six (6) or more specialty classifications under any one (1) major classification without successfully passing the
written or oral examination, or both, for the major classification.

(e) Notwithstanding any provision of this part to the contrary, the board may promulgate rules or regulations establishing subclassifications within the residential construction classification for which a limited license may be issued to an applicant who has successfully completed a seminar sponsored by the board in lieu of the written or oral examination, or both, and who has otherwise complied with the requirements of this part.

(f)(1) A commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public, including residential construction with more than four (4) units or greater than three (3) stories in height.

(2) A small commercial building contractor is authorized to bid on and contract for the construction, erection, alteration, repair or demolition of any building or structure for use and occupancy by the general public, the total cost of which does not exceed one million five hundred thousand dollars ($1,500,000).

62-6-308. Disciplinary powers of commissioner.

(a) The commissioner may take disciplinary action against a licensee or applicant, deny an application for a license, assess a civil penalty of up to one thousand dollars ($1,000) per violation, or may suspend, revoke, or refuse to issue or renew a license when a licensee performs or attempts to perform any of the following acts:

(1) Accepting or offering commissions or allowances, directly or indirectly, from or to parties other than the client, unless fully disclosed to the client in writing;

(2) Performing or offering to perform repair or maintenance work on a property the licensee has inspected in the preceding twelve (12) months;

(3) Using a home inspection with the intention to obtain work in another field or profession;

(4) Accepting compensation, financial or otherwise, from more than one (1) interested party for the same service without the consent of all interested parties;

(5) Failing to disclose to the client any financial interest or any relationship that may affect the client’s interest;

(6) Disclosing information concerning the results of a home inspection without the approval of the client or the client’s legal representative, except under a court order;

(7) Knowingly making a false or misleading representation about:

(A) The condition of a residential dwelling for which the licensee has performed or has contracted to perform a home inspection; or

(B) The extent of the services the licensee has performed or will perform;

(8) Committing a felony offense that bears directly on the person’s fitness to practice competently, as determined by the commissioner;

(9) Violating any provisions of this part or rules promulgated by the commissioner under this part;

(10) Making a false or misleading representation:

(A) In a license or renewal application form; or
(B) In information provided to the commissioner;
(11) Failing to pay any fees or fines required by this part;
(12) Failing to continuously maintain the insurance required by this part;
(13) Communicating to the public false or misleading information about the type of license held by the licensee;
(14) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients; or
(15) Failing to complete the continuing education requirements established by the commissioner.

(b) The commissioner is authorized to issue citations against persons engaging in or conducting the business or acting in the capacity of a home inspector as defined in this part without a license in violation of § 62-6-304. The commissioner shall promulgate rules and regulations to specify those conditions necessary to the issuance of a citation and the range of penalties for violations of this part. Each citation shall:

(1) Be in writing and shall describe with particularity the basis for the citation; and
(2) Contain an order to cease all violations of this part and an assessment of a civil penalty in an amount not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000) per violation.

c) The sanctions authorized pursuant to this part shall be in addition to any other remedies, civil and criminal, available to any person harmed by a violation of this part.

d) The Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any contested case arising under this part.

62-6-406. Application to work as a limited licensed plumber — Examination — Exemptions — Municipal and county licenses — Plumbing inspection.

(a)(1) If a person was not engaged in plumbing work prior to January 1, 2006, after that date, once a person obtains a minimum of one (1) year of plumbing experience satisfactory to the board as required in this part, the person desiring to engage in plumbing work as a limited licensed plumber in this state shall make written application to the board on forms prescribed by the board. The application shall be accompanied by a nonrefundable application fee.

(2) If the application is satisfactory to the board, then the applicant is entitled to take an examination to determine the applicant’s qualifications. The board shall charge each applicant an examination fee as set by the board for each examination. The applicant is entitled to an examination to determine the applicant’s qualifications. The examination may be written or oral, or both.

(3) If the results of the examination of an applicant are satisfactory to the board, then the board may issue to the applicant a license authorizing the applicant to perform plumbing services as provided in this part and charge a fee for the license.

(4) In addition, if a person was not engaged in plumbing work prior to January 1, 2006, after that date, the board may also issue a license without an examination to a person who has been issued a license by a municipality
or county if the person has obtained the minimum of one (1) year of plumbing experience in that municipality or county; provided, that the test required by the municipality or county is satisfactory to the board. In such case, the examination fee shall be waived by the board. The license issued to the person shall indicate that the person is not automatically permitted to work in any municipality or county that issues its own license to engage in plumbing work in that municipality or county.

(5) Except as provided in subsection (h), if a person was not engaged in plumbing work prior to January 1, 2006, after that date, if the license for a limited licensed plumber was issued to a person pursuant to subdivision (a)(2) or (a)(4), once the person submits credible evidence to the board that the person has a minimum of two (2) years of plumbing experience satisfactory to the board, the board shall issue a license to the person, if the application is satisfactory to the board, that permits the person to perform plumbing services in any municipality, metropolitan government or county in this state, as provided by § 62-6-111(i); provided, however, that for purposes of this subdivision (a)(5), the licensee shall pay any local licensing fees in effect on the date the license issued pursuant to this subdivision (a)(5) is applied for.

(b) The board may issue a license as a limited licensed plumber to any person without an examination as required by this part, if the person makes an application to the board prior to August 1, 2006, and provides evidence to the board that the person had obtained the minimum one (1) year of plumbing experience prior to January 1, 2006, satisfactory to the board. The license issued to the person shall indicate that the person is not automatically permitted to work in any municipality or county that issues its own license to engage in plumbing work in that municipality or county.

(c)(1) Except as provided in subsection (b), applications for a license after January 1, 2006, shall provide proof of experience as required by the board; and the plumbing experience shall not be less than one (1) year of plumbing experience satisfactory to the board.

(2) The board shall promulgate rules and regulations that establish uniform criteria to govern the issuance of licenses by the board. The board shall have discretionary authority in individual cases to modify criteria for an applicant, if the public safety and welfare clearly require modification and if the board furnishes the applicant with a written statement justifying the modification; provided, that the minimum one (1) year of plumbing experience satisfactory to the board shall not be waived or modified.

(d) The exemption provisions on licensure of subdivisions (a)(2) and (a)(3) of § 62-6-103 shall apply to limited licensed plumbers.

(e)(1) Notwithstanding any provision of this part to the contrary, a license as a limited licensed plumber shall not be required for a person to engage in plumbing work in any municipality or county that issues licenses to persons to perform plumbing work only in that municipality or county; provided, that the plumbing work may be used toward accumulating the minimum one (1) year of experience required to obtain licensure as a limited licensed plumber.

(2) A current copy of a license or certification issued to a person who was engaged in plumbing work prior to January 1, 2006, by any county or municipality of this state prior to August 1, 2006, is evidence that the applicant had, by examination by an official of the county or municipality, demonstrated the qualifications required to perform plumbing work within its jurisdiction and was actively engaged in that business on January 1,
2006.

(f) Any limited licensed plumber required by this part to be licensed, who requests a plumbing inspection, must first have a license as a limited licensed plumber issued by the board or a license issued by a municipality or county. If a municipality or county provides plumbing inspection services, then the plumbing inspection shall be provided by the municipality or county.

(g)(1) The board shall formulate a system for inspectors when the plumbing inspection services are not provided by a municipality or county to report any problems they may encounter with the workmanship or conduct of a limited licensed plumber. The system shall include the use of inspectors who are employed by the board under § 62-6-107(b).

(2) Inspectors working under the direction of the contractor’s licensing board shall inspect a limited licensed plumber’s work no later than the time of the rough electrical inspection and the work shall be found to be either satisfactory or unsatisfactory and requiring remedial work.

(3) The board shall formulate an appropriate system and fee structure to be charged for inspections performed by inspectors working under the direction of the contractor’s licensing board to effectuate the inspection provisions of this part within five (5) years after January 1, 2006.

(h) Notwithstanding subsections (a)-(g), nothing in this part shall prohibit a city or county from adopting and enforcing stricter testing or experience requirements, or both, for a person to engage in plumbing work within the jurisdiction of the city or county; provided, however, that once an individual passes the license issued by the board to perform plumbing services statewide and the individual meets the stricter requirements, then the individual may perform plumbing services in any municipality, metropolitan government or county in this state.


(a) An application for an original license required by this part shall be in writing on a form prescribed by the board. The board may seek from an applicant information pertinent to the applicant’s character, experience, financial stability and other information deemed necessary in order to evaluate the applicant’s qualifications to be licensed pursuant to this part.

(b) The applicant shall file with the board information that includes, but is not limited to:

(1) A complete statement of the general nature of the applicant’s home improvement contracting business or the applicant’s duties;

(2) If the applicant is:
   (i) An individual, the applicant’s name and address;
   (ii) A partnership, the names and addresses of all partners;
   (iii) A joint venture, the names and addresses of the parties to it; or
   (iv) A corporation, the names and addresses of all officers;

(3) A record of the previous experience of the applicant in the field of home improvements or other construction work, including dates and addresses where the applicant has resided and done business;

(4) Whether the applicant has ever been licensed in this state or any other state or has had a professional or a vocational license refused, suspended or revoked;
Evidence of worker’s compensation coverage pursuant to title 50, chapter 6 and evidence of general liability insurance, including the amount of the coverage, or submission to the board of a copy of the applicant’s insurance policies or certificates of insurance issued by the carrier or self-insurer to the applicant indicating the date and duration of the coverage. Evidence of insurance coverage pursuant to this subdivision (b)(5) also shall be required to be submitted for renewal of licensure;

(6) Whether, in the five (5) years prior to the date of application, the applicant had any judgment rendered against the applicant in actions arising out of the field of home improvements or other construction work;

(7) Whether the applicant presently has outstanding judgments against the applicant in actions arising out of the field of home improvements or other construction work; and

(8) Whether the applicant is involved in pending litigation arising out of the field of home improvements or other construction work.

c) The board shall prescribe and furnish appropriate forms in connection with the issuance, renewal or termination of licenses.

d) Temporary licenses may be issued in accordance with rules or regulations adopted by the board to any applicant for a license who files an application in proper form and pays all required fees. A temporary license shall automatically expire at the time the board either refuses to issue or grants a license and shall be subject to termination at any time prior to action by the board.

e) Unless revoked or suspended by the board, a license shall expire the last day of the twenty-fourth month from issuance and may be renewed upon payment of all required fees and upon completion of a statement indicating all material changes from the original application for a license.

f) Every licensee, within thirty (30) days after change of control in ownership, management or a change of address or trade name, shall notify the board of the change.

g) The board, at any time, may require:

(1) Reasonable information of an applicant or licensee; and

(2) The production of books and accounts and financial statements.

h) An applicant for a home improvement contractor’s license shall file with the board a surety bond or an irrevocable letter of credit in the amount of ten thousand dollars ($10,000) for the benefit of any person who is damaged because of the breach of the home improvement contract. Any person so damaged may sue directly on the bond without assignment thereof. The bond may not be construed to require any surety to be responsible for the completion of a home improvement contract entered into by the principal on the bond. The liability of the surety under any bond may not exceed in the aggregate the amount of the bond. If the bond ceases to be in effect, the home improvement contractor’s license shall become invalid.


As used in this chapter, unless the context otherwise requires:

(1) “Commissioner” means the commissioner of commerce and insurance or the commissioner’s designee or, in the event of the commissioner’s or designee’s absence or vacancy in the office of the commissioner, the deputy commissioner;
(2) “Department” means the department of commerce and insurance;
(3) “Licensed HVAC contractor” means a person holding a license from the state board for licensing contractors with a CMC, MC, CMC-C, or MC-C classification;
(4) “Person” means an individual, association, partnership, corporation, or any other legally cognizable organization or entity;
(5) “Scrap metal” means any ferrous or nonferrous metal that is no longer used for its original purpose and is capable of being processed for reuse by a metal recycling facility, including, but not limited to, iron, brass, wire, cable, copper, bronze, aluminum, platinum, lead, solder, steel, stainless steel, catalytic converters or other similar obsolete ferrous or nonferrous metals, but shall not include recyclable aluminum cans; and
(6) “Scrap metal dealer” means a person who buys, exchanges or deals in scrap metal or an employee or agent of that dealer who has the express or implied authority to buy, exchange or deal in scrap metal on behalf of the dealer.


(a)(1) Except as provided in subsection (f), no dealer shall purchase, deal, or otherwise engage in the scrap metal business unless the dealer is registered with the department.
(2) Any registration under this chapter expires two (2) years from the date of the registration or the renewal of the registration.
(3) The commissioner may promulgate and adopt rules that are reasonably necessary to carry out this chapter. The commissioner shall establish registration and renewal fees that are adequate to cover the administrative costs associated with the registration program.
(b) Included on each registration and renewal form must be a section in which the registrant declares, under penalty of perjury pursuant to § 39-16-702(a)(3), whether the registrant has ever been convicted of a violation of this chapter or convicted of the criminal offense of theft, burglary or vandalism, where the offense involves scrap metal. If the registrant is a legally cognizable organization or entity, convictions of theft, burglary or vandalism, where the offense involves scrap metal, by any member, as defined in title 48, of the organization or entity must be disclosed on the application. Convictions of theft, burglary or vandalism, where the offense involves scrap metal, by members of organizations or entities constitute convictions by the registrant for purposes of subsection (c).
(c) A registrant who has been convicted of a violation of this chapter or has a conviction for the criminal offense of theft, burglary or vandalism, where the offense involves scrap metal, is prohibited from registering under this chapter for five (5) years from the date of conviction.
(d) Notwithstanding any law to the contrary, a registration issued pursuant to this chapter does not expire immediately upon the death of the registrant. The registration continues to be effective for the locations designated in the registration for a period of at least sixty (60) days after the death of the registrant. The sixty-day period may be extended by the commissioner for good cause.
(e) Notwithstanding any law to the contrary, a registration issued pursuant to this chapter expires upon notification to the department that the registrant
is no longer in business at the registered location.

(f) Notwithstanding subsection (a):

(1) Nothing in this chapter requires an employee of a registered scrap metal dealer to secure a registration under this chapter as long as the employee remains an employee of the registered scrap metal dealer; and

(2) Nothing in this chapter prohibits a registered scrap metal dealer from employing another registered scrap metal dealer.

(g) A registered scrap metal dealer shall list each place of business within this state with reference to its specific location, upon registration and upon subsequent renewals of the registration.

62-9-115. [Repealed.]


Any violation of this chapter committed by an employee of a registered scrap metal dealer while acting within the scope of employment constitutes a violation by that dealer for purposes of enforcement of this chapter.


(a)(1)(A) Each office shall have a real estate firm license, a principal broker and a fixed location with adequate facilities for affiliated licensees, located to conform with zoning laws and ordinances.

(B) Each branch location shall comply with the requirements of subdivision (a)(1)(A).

(2) The license of a broker and of each affiliate broker under contract to the broker shall be prominently displayed in the broker's principal place of business.

(3) Within ten (10) days after any change of location of the office, the principal broker registered at that office shall notify the commission in writing of the office's new business address and shall pay the fee established in § 62-13-308. The new address shall be considered the new business address for all brokers or affiliate brokers associated with the location unless any such brokers or affiliate brokers otherwise notify the commission of a new business address through a change of affiliation, termination of affiliation, or by other means acceptable to the commission.

(b)(1) Each licensed broker shall maintain a sign on the outside of the broker's office of the size and content that local ordinances and the commission prescribe, which shall clearly state that the broker is engaged in the real estate business.

(2) In making application for a license or for a change of location, the licensee shall verify, in writing, that the licensee's office conforms with zoning laws and ordinances.

(3) The maintenance of the broker's office in the broker's home shall not relieve the broker from the requirement of having a sign outside of the house as required in this subsection (b).

(4) Affiliate brokers are not required to display signs at the office of their brokers.

(c) The requirements of subsections (a) and (b) may be waived in cases of certain unusual geographical circumstances.

(d)(1) If the applicant for a broker's license maintains more than one (1) place of business within the state, the applicant shall apply for and obtain an
additional firm license for each branch office;

(2) Every application shall state the location of the branch office and the name of the person in charge of it; and

(3) Each branch office shall be under the direction and supervision of a broker licensed at that address.

(e) No more than one (1) license shall be issued to any broker or affiliate broker to be in effect at one (1) time.

(f) Upon original application for a firm license and each renewal of the license, the firm shall provide proof of the establishment of the firm’s escrow account satisfactory to the commission.

(g) A principal broker may act as a principal broker for two (2) firms as long as both firms are in the same location. As used in this subsection (g), “the same location” means that both firms are located at and use the same physical address.

62-26-223. Exceptions to applicability of part.

(a) This part does not apply to a public accountant and a certified public accountant, or the agent of either, performing duties relating to public accountancy.

(b) This part does not apply to:

(1) A governmental officer or employee performing official duties;

(2) A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons;

(3)(A)(i) An attorney at law in good standing and licensed to practice law;

(ii) An employee of a single attorney or single law firm who is acting within the employee’s scope of employment for the attorney or law firm; or

(iii) A consultant when the person is retained by an attorney or appointed by a court to make tests, conduct experiments, draw conclusions, render opinions or make diagnoses, where those services require the use of training or experience in a technical, scientific or social science field;

(B) These exceptions do not apply to any other person or company that otherwise provides or offers to provide investigative services as described in § 62-26-202;

(4) An insurance company, licensed insurance agent or staff or independent adjuster performing investigative duties in connection with insurance business transacted;

(5) A private business employee conducting investigations relating to the internal affairs of the business;

(6) Any individual conducting investigative activities in connection with the repossession of a vehicle;

(7) An individual conducting undercover investigations meeting the criteria set forth in § 62-26-231;

(8) Any person duly licensed by this state in another profession while the person is engaged in activities within the scope of that profession;

(9) Any student from any college or university who is working as an intern in a public defender’s or district attorney’s program in this state who is directly supervised by an attorney at law in the public defender’s or district
attorney’s office and who is not compensated for the services; or

(10) A person engaged exclusively in the business of obtaining and furnishing information regarding a candidate for employment to the candidate’s potential employer.

(c) An insurance adjuster claiming an exemption to this part under subdivision (b)(4) must be an employee of an insurance company duly licensed to do business in this state, a licensed insurance agent in this state or a staff employee of the agent, or an independent adjuster performing investigative activity limited to matters directly pertaining to an insurance transaction. The employee of the insurance company, the insurance agent or employee of the agent or the independent adjuster or employee of the adjuster must be acting within the scope of that person’s employment with respect to the investigative activity.

62-32-322. Cancellation of contract for alarm system services.
[Effective January 1, 2018.]

An owner of residential property, that serves as the owner’s primary residence, may cancel a contract between the owner and an alarm systems contractor for the provision of alarm system services when the term of the contract is for a period longer than two (2) years by giving thirty-days’ written notice to the alarm systems contractor after the initial two (2) years in the term if:

(1) The owner is required to sell the residential property due to medical reasons; and

(2) The owner provides the alarm systems contractor with a letter from the owner’s treating physician verifying the medical reasons.


(a) An application for a contract security company license shall be filed with the commissioner on the prescribed form. The application shall include:

(1)(A) The full name and business address of the applicant;

(B) If the applicant is a partnership, the name and address of each partner; or

(C) If the applicant is a corporation, the name and address of the qualifying agent;

(2) The name under which the applicant intends to do business;

(3) The address of the principal place of business and all branch offices of the applicant within this state;

(4) As to each individual applicant or, if the applicant is a partnership, as to each partner or, if the applicant is a corporation, as to the qualifying agent, the following information:

(A) Full name;

(B) Date and place of birth;

(C) All residences during the immediate past five (5) years;

(D) All employment or occupations engaged in during the immediate past five (5) years;

(E) Three (3) sets of classifiable fingerprints;

(F) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

(G) A list of all convictions and pending charges of commission of a
felony or misdemeanor in any jurisdiction;
(5) If the applicant is a corporation, the following information:
   (A) The correct legal name of the corporation;
   (B) The state and date of incorporation;
   (C) The date the corporation qualified to do business in this state;
   (D) The address of the corporate headquarters, if located outside this
state; and
   (E) The names of two (2) principal corporate officers other than the
qualifying agent and the business address, residence address and the
office held by each in the corporation; and
(6) Other information the commissioner may reasonably require.
(b) The application shall be subscribed and sworn to:
   (1) By the applicant, if the applicant is an individual;
   (2) By each partner, if the applicant is a partnership; or
   (3) By the qualifying agent, if the applicant is a corporation.
(c) Any individual signing the application must be at least twenty-one (21)
years of age.
(d)(1) Notwithstanding any provision of this chapter to the contrary, a
properly licensed contract security company may use temporary employees
not registered with the department as temporary security guards for special
events upon the approval of a special event permit by the commissioner. A
temporary security guard used pursuant to this subdivision (d)(1) must:
   (A) Be at least eighteen (18) years of age;
   (B) Act as a temporary security guard under a special event permit for
no more than ten (10) days in a calendar year;
   (C) Have no arrest authority; and
   (D) Not be armed during the temporary employment.
(2) Applications for a special event permit must include:
   (A) The names of the temporary employees;
   (B) The addresses of the temporary employees;
   (C) The birth dates of the temporary employees;
   (D) The fee as set by subsection (e);
   (E) The identity, location, and date of the special event or events for
which the temporary employees are to be employed; and
   (F) Other information as the commissioner may reasonably require.
(e) Applications for a special event permit must be submitted to the
commissioner at least five (5) days prior to the commencement of the special
event and accompanied by a fee for each temporary employee or special event
permit as set by rule. If the commissioner has not set a fee for registration of
a temporary employee or special event permit by rule, then the fee shall be
thirty-five dollars ($35.00) per temporary employee.
(f) A special event permit shall only be valid for the dates, locations, and
events disclosed on the permit application. A new application for a special
event permit must be filed for any additional dates or locations not authorized.
(g) The commissioner may decline to issue a special event permit if the
commissioner, in the commissioner’s sole discretion, determines that the
issuance of such a permit is not in the best interest of the public based on the
size of the event, the level of security required by the event, the number of
permits previously issued to a contract security company during the past year,
or other factors as the commissioner may reasonably consider.
(h) Prior to approving the request for a special event permit, the commis-
sioner may require that any person requesting a permit provide a bond on a form acceptable to the commissioner in an amount set by the commissioner. The bond shall be for the benefit of any person who is damaged by a temporary security guard acting under a special event permit.


(a) Before suspending or revoking any license or certification, the commission shall notify the appraiser in writing of any charges within a reasonable period of time prior to the date set for the hearing and shall afford the appraiser an opportunity to be heard in person or by counsel.

(b) The written notice may be served either personally or sent by registered or certified mail to the last known business address of the appraiser.

(c) The commission shall have the power to subpoena and issue subpoenas duces tecum and to bring before it any person in this state and to take testimony by deposition, in the same manner as prescribed by law in judicial proceedings in the courts of this state.

(d) The commission shall not consider a complaint for disciplinary action against a real estate appraiser if the complaint relates to an appraisal that was completed more than three (3) years before the complaint was submitted to the commission.


For purposes of this part, unless the context otherwise requires:

(1) “Affiliate” has the meaning provided in 12 U.S.C. § 1841;

(2) “AMC National Registry” means the registry of state-registered AMCs and federally regulated AMCs maintained by the appraisal subcommittee;

(3) “Appraisal” means the act or process of developing an opinion of value of identified real estate. That opinion of value may be numerically expressed either as a specific amount, as a range of numbers, or as a relationship to a previous value opinion or other numerical benchmark. “Appraisal” does not include any opinion of value referred to as evaluations under § 62-39-104;

(4) “Appraisal management company” or “AMC”:

(A) Means a person that:

(i) Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates;

(ii) Provides such services in connection with valuing a consumer’s principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations; and

(iii) Within a given twelve-month period, as defined in 12 C.F.R. 1222.22(d), oversees an appraiser panel of more than fifteen (15) state-certified or state-licensed appraisers in a state or twenty-five (25) or more state-certified or state-licensed appraisers in two (2) or more states, as described in 12 C.F.R. 1222.22;

(B) Does not include a department or division of an entity that provides appraisal management services only to that entity;

(5) “Appraisal management services” means one (1) or more of the following:

(A) Recruiting, selecting, and retaining appraisers;

(B) Contracting with state-certified or state-licensed appraisers to perform appraisal assignments;
(C) Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary mortgage market participants, collecting fees from creditors and secondary mortgage market participants for services provided, and paying appraisers for services performed; and

(D) Reviewing and verifying the work of appraisers;

(6) “Appraisal subcommittee” or “ASC” means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council;

(7) “Appraiser” means an individual who holds a license under part 1 of this chapter;

(8) “Appraiser panel” means a network, list, or roster of appraisers approved by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an AMC’s appraiser panel under this part include both appraisers accepted by the AMC for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions and appraisers engaged by the AMC to perform one (1) or more appraisals in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this subdivision (8) if the appraiser is treated as an independent contractor by the AMC for purposes of federal income taxation;

(9) “Commission” means the real estate appraiser commission created by § 62-39-201;

(10) “Consumer credit” means credit offered or extended to a consumer primarily for personal, family, or household purposes;

(11) “Controlling person” means:

(A) An owner, officer or director of a corporation, partnership, or other business entity seeking to offer appraisal management services in this state;

(B) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals; or

(C) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company;

(12) “Covered transaction” means any consumer credit transaction secured by the consumer’s principal dwelling;

(13)(A) “Creditor” means a person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four (4) installments, not including any down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;

(B) A person regularly extends consumer credit if the person either:

(i) Extended credit, other than credit subject to the requirements of 12 C.F.R. 1026.32, more than five (5) times for transactions secured by a dwelling in the preceding calendar year or, if a person did not meet these numerical standards in the preceding calendar year, in the current calendar year; or
(ii) In any twelve-month period, originates more than one (1) credit extension that is subject to the requirements of 12 C.F.R. 1026.32 or originates one (1) or more such credit extensions through a mortgage broker;

(14)(A) “Dwelling” means a residential structure that contains one to four (1-4) units, whether or not that structure is attached to real property. “Dwelling” includes individual condominium units, cooperative units, mobile homes, and trailers, if used as a residence;

(B) A consumer may have only one (1) principal dwelling at a time. A vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer’s principal dwelling within one (1) year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section;

(15) “Federally regulated AMC” means an AMC that is owned and controlled by an insured depository institution, as defined in 12 U.S.C. § 1813, and that is regulated by the office of the comptroller of the currency, the board of governors of the federal reserve system, or the federal deposit insurance corporation;

(16) “Person” means a natural person or an entity, including a corporation, limited liability company, partnership, sole proprietorship, association, cooperative, estate, trust, or government unit;

(17) “Secondary mortgage market participant” means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities, and only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of guarantor, insurer, underwriter, or issuer for the mortgage-backed security;

(18) “States” means the fifty (50) states, the District of Columbia and the territories of Guam, Mariana Islands, Puerto Rico, and the U.S. Virgin Islands; and

(19) “Uniform Standards of Professional Appraisal Practice” or “USPAP” means the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation.


This part shall not apply to:

(1) A national or state bank or federal or state savings institution that is subject to direct regulation or supervision by an agency of the United States government, or by the department of financial institutions, that receives a request for the performance of an appraisal from one (1) employee of the financial institution, and another employee of the same financial institution assigns the request for the appraisal to an appraiser who is an independent contractor to the institution. An entity exempt as provided in this subdivision (1) shall file a notice with the commission that contains the information required in § 62-39-403;

(2) An appraiser that enters into an agreement, whether written or otherwise, with an appraiser for the performance of an appraisal, and upon the completion of the appraisal, the report of the appraiser performing the appraisal is signed by both the appraiser who completed the appraisal and the appraiser who requested the completion of the appraisal;
(3) Any state agency or local municipality that orders appraisals for ad valorem tax purposes or any other business on behalf of this state;

(4) Any person licensed to practice law in this state, a court-appointed personal representative, or a trustee who orders an appraisal in connection with a bona fide client relationship when such person directly contracts with an independent appraiser;

(5) A certified public accountant or CPA firm regulated under chapter 1, part 1 of this title; or

(6)(A) A federally regulated AMC;

(B) Notwithstanding subdivision (6)(A), any federally regulated AMC operating in this state shall report to the commission the information required to be submitted by the commission to the appraisal subcommittee pursuant to the appraisal subcommittee’s policies regarding the determination of the AMC National Registry fee, including, but not limited to, the collection of information related to the limitations set forth in 12 C.F.R. 34.215, as applicable.


(a)(1) An appraisal management company applying for a registration in this state shall not be owned, in whole or in part, directly or indirectly, by:

(A) Any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive cause, as determined by the commission; or

(B) An entity that is more than ten percent (10%) owned by any person who has had a license or certificate to act as an appraiser refused, denied, canceled, revoked, or surrendered in lieu of revocation in any state for a substantive cause, as determined by the commission.

(2) Each person who owns more than ten percent (10%) of an appraisal management company in this state shall:

(A) Be of good moral character, as determined by the commission; and

(B) Submit to a background investigation, as may be required by the commission.

(3) The commission may, in its discretion, issue a registration to an appraisal management company that is ineligible under subdivision (a)(1), but is otherwise qualified, if the license or certificate of the appraiser with an ownership interest in the appraisal management company or the owning entity was not revoked for a substantive cause, as determined by the commission, and has been reinstated by the state or states in which the appraiser was licensed or certified.

(b) Each appraisal management company applying for registration shall certify to the commission that it has reviewed each entity that owns more than ten percent (10%) of the appraisal management company and that no entity that owns more than ten percent (10%) of the appraisal management company is more than ten-percent owned by any person who has had a license or certificate to act as an appraiser refused, denied, cancelled, revoked, or surrendered in lieu of a pending revocation.

(c) Each appraisal management company shall notify the commission within thirty (30) days of a change in its controlling principal, agent of record, or ownership composition.

(a) Prior to placing an assignment, for real estate appraisal services within the state of Tennessee, with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall have a system in place to verify that the appraiser receiving the assignment holds a credential in good standing in the state of Tennessee. Letters of engagement shall include instructions to the appraiser to decline the assignment in the event the appraiser is not geographically competent or the assignment falls outside the appraiser's scope of practice restrictions.

(b) Each appraisal management company shall, at the request of the commission, provide the names of all persons on the AMC’s appraisal panel and a list of all state appraisal licenses or certifications each appraiser on the panel holds, including the state of issuance, expiration date, and number of each certification or license, which the commission may verify.


(a) Each appraisal management company registered or seeking to be registered must certify to the commission biennially that it maintains a detailed record of each service request for appraisal services within this state that it receives and of each appraiser who performs an appraisal for the appraisal management company in this state.

(b) The commission may examine the books and records of an appraisal management company operating in this state and require such an appraisal management company to submit such reports, information, and documents as the commission may reasonably require.


In addition to all other powers and authority provided by this chapter or other applicable law, the commission shall have the power to:

1. Conduct investigations of an AMC to assess potential violations of applicable appraisal-related laws, regulations, or orders;
2. Discipline, suspend, terminate, or deny renewal of the registration of an AMC that violates applicable appraisal-related laws, regulations, or orders;
3. Report an AMC's violation of applicable appraisal-related laws, regulations, or orders, as well as disciplinary and enforcement actions and other relevant information about an AMC's operations, to the appraisal subcommittee;
4. Submit to the appraisal subcommittee any information required to be submitted by the appraisal subcommittee's regulations or guidance concerning AMCs that operate in this state; and
5. Collect and transmit to the appraisal subcommittee an annual registry fee, in the amount set by the appraisal subcommittee, from state registered AMCs and AMCs operating as subsidiaries of a federally regulated financial institution in this state.


All AMCs operating in this state that are not owned and controlled by an insured depository institution and are not regulated by a federal financial
institution’s regulatory agency shall:

1. Register with and be subject to supervision by the commission, unless otherwise exempt;
2. For appraisals in this state, engage only state-certified or state-licensed appraisers holding a credential in good standing in this state;
3. Establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience to competently complete the appraisal assignment for the particular market and property type;
4. Direct the appraiser to perform the assignment in accordance with the USPAP; and
5. Establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with the requirements of section 129E(a)-(i) of the Truth in Lending Act (15 U.S.C. § 1639e(a)-(i)) and regulations promulgated thereunder.


(a) This section shall be known and may be cited as the “Freedom to Prosper Act.”
(b) Notwithstanding any provision of law to the contrary, on and after July 1, 2017, no political subdivision may:
1. Impose a licensing requirement on an individual’s profession, trade, or occupation if the profession, trade, or occupation is subject to state licensing requirements unless the political subdivision imposed the licensing requirement prior to July 1, 2017; or
2. Expand or increase any licensing requirement on an individual’s profession, trade, or occupation if the licensing requirement existed prior to July 1, 2017, and the profession, trade, or occupation is subject to state licensing requirements.
(c) The prohibitions set out in subsection (b) do not apply to licensing requirements on or any other regulation of law enforcement officers, firefighters, emergency medical service providers, emergency rescue management providers, or any other type of first responder or emergency service provider.


(a) There is created the Tennessee public utility commission consisting of five (5) part-time commissioners. The commissioners shall be appointed as follows: one (1) commissioner shall be appointed by the governor, one (1) commissioner shall be appointed by the speaker of the senate, one (1) commissioner shall be appointed by the speaker of the house of representatives, and two (2) commissioners shall be appointed by joint agreement among the governor, the speaker of the senate and the speaker of the house of representatives. In making the appointments pursuant to this subsection (a), the governor, the speaker of the senate and the speaker of the house of representatives shall strive to ensure that the Tennessee public utility commission is composed of commissioners who are diverse in professional or educational background, ethnicity, geographic residency, perspective and
experience.

(b) Each commissioner of the commission shall have at a minimum a bachelor’s degree and at least three (3) years’ experience in a regulated utility industry, in executive level management, or in one (1) or more of the following fields:

1. Economics;
2. Law;
3. Finance;
4. Accounting; or
5. Engineering.

(c) The commissioners of the commission shall be state officers and, except for the staggered terms provided in subsection (h), shall serve six-year terms.

(d) The governor, the speaker of the senate, and the speaker of the house of representatives shall make appointments by April 1, prior to the expiration of the terms of office of the commissioners.

(e) The term of office of each commissioner shall commence on July 1, following such commissioner’s appointment.

(f) All appointments of the commissioners shall be confirmed by joint resolution adopted by each house of the general assembly within thirty (30) days after the appointment.

(g) Any vacancy on the commission shall be filled by the original appointing authority for such position to serve the unexpired term and each appointment shall be confirmed in the same manner as the original appointment. If, however, the general assembly is not in session and a vacancy occurs, the appropriate appointing authority shall fill such vacancy by appointment and the appointee shall serve the unexpired term, unless the appointment is not confirmed within thirty (30) days after the general assembly convenes following the appointment to fill such vacancy.

(h) The terms of current commissioners appointed during 2008 and commissioners appointed during 2012 shall be staggered and shall expire as follows:

1. The terms of the existing commissioners appointed by the speaker of the house of representatives and the speaker of the senate shall expire on June 30, 2014;
2. The term of the existing commissioner appointed by the governor shall expire on June 30, 2017;
3. The terms of the joint commissioners commencing on July 1, 2012, shall expire on June 30, 2018.

(i) A commissioner shall continue to serve until the commissioner’s successor is appointed.

65-1-102. Commissioners — Prohibited activities.

(a) No commissioner shall hold any other public office, under either the government of the United States or the government of this or any other state, nor shall any commissioner, while acting as such, engage in any business or occupation inconsistent with such person’s duties as a commissioner. No commissioner shall be eligible to qualify as a candidate for any elected office unless such commissioner resigns from the commission prior to qualifying as a candidate. For the purposes of this section, “qualify as a candidate” means filing a statement certifying the name and address of a political treasurer
pursuant to § 2-10-105(e).

(b) No person who owns, in an individual capacity or jointly with another person, any bonds, stocks, equity interest or other property in any business or entity regulated by the Tennessee public utility commission, or who is an agent or employee in any way of any such business or entity, shall be eligible to serve as a commissioner of the Tennessee public utility commission.

(c)(1) No commissioner shall raise funds or solicit contributions for any political candidate or political party, or, except as provided in subdivision (c)(2), actively campaign for any candidate for public office.

(2)(A) A commissioner shall be permitted to actively campaign for an “immediate family member” as that phrase is defined in § 8-50-502(8).

(B) The mere attendance of a commissioner at a political event or politically oriented event shall not constitute a violation of subdivision (c)(1).

(C) A commissioner’s alleged violation of this subsection (c) shall be treated in the same manner as if such commissioner were a judge covered by Rule 10 of the Rules of the Supreme Court.

(d) No commissioner shall enter into an employment relationship, a consulting or representation agreement, or other similar contract or agreement with either an entity regulated by the commission or a subcontractor of such an entity for a period of one (1) year after the commissioner ceases to serve as a commissioner of the commission.

65-1-103. Meetings.

(a) The commissioners shall convene regular monthly meetings and shall remain in session until all business before them is disposed of, and shall hold other sessions at such times and places as may be necessary for the proper discharge of their duties. If the business of the commission does not require a monthly meeting, a majority of the commissioners may waive the requirement of a meeting.

(b) All decisions of the Tennessee public utility commission pertaining to dispositions to or from any deferred revenue account shall be made in a public meeting of the commission. The attorney general and reporter and any other interested party shall be given adequate notice of the meeting and shall be given the opportunity to present oral and written testimony. As used in this section, “deferred revenue account” means any account created for the excess earnings from utilities regulated by the Tennessee public utility commission.

65-1-104. Quorum — Chair and vice chair — Panels.

(a) A majority of the commissioners of the Tennessee public utility commission shall constitute a quorum for the transaction of business. The commission shall elect one (1) of its commissioners to be the chair of the commission for a two-year term and shall elect one (1) of its commissioners to be the vice chair of the commission for a two-year term. The vice chair shall assume the role of chair at the expiration of the chair’s two-year term.

(b) The chair and vice chair of the commission may be removed by a majority vote of the disinterested commissioners.

(c) The chair shall have the primary responsibility of formulating the broad strategies, goals, objectives, long-range plans and policies of the commission, in conjunction with the commissioners. The chair shall also have the power and duty to conduct ordinary and necessary business in the name of the
commission. Such duties include, but are not limited to, the following:

1. Giving notice of, and agendas for, all meetings of the commission to all commissioners in advance of the meeting;
2. Assigning matters to be heard by panels in accordance with this section;
3. Preparing and calling the docket items to be heard during each scheduled meeting of the commission;
4. Keeping the official, full and correct record of all proceedings and transactions of the commission;
5. Serving as the designated contact for all media inquiries to the commission;
6. Ensuring that orders by the commission are issued in a timely manner and in accordance with the rules and procedures established by the executive director;
7. Conducting a yearly performance evaluation of the executive director, which shall be submitted to the governor;
8. Delegating duties of the chair to the vice chair; and
9. Performing such other duties as the commission may assign or as may be required by statute, rule or regulation.

(d) The chair shall assign each matter before the authority to a panel of three (3) voting members, from among the commissioners. The remaining two (2) voting members of the commission, who are not assigned to a particular panel, shall not vote or deliberate regarding such matters. The commission shall establish reasonable procedures for rotating the commissioners for assignments to panels in an efficient manner. Such procedures shall ensure that all voting members of the authority serve on a substantially equal number of panels in a random fashion, to the extent practicable.


(a) The compensation of each commissioner of the Tennessee public utility commission shall be thirty-six thousand dollars ($36,000) per year payable monthly out of the state treasury on the warrant of the commissioner of finance and administration. When commissioners are assigned to serve on a panel lasting more than one (1) day, the commissioner shall be compensated one hundred forty dollars ($140) for each day, or portion of a day, following the first day, for the duration of the matter. Such compensation shall be in addition to reimbursement for actual travel expenses on official business under subsection (b).

(b) The five (5) commissioners shall be reimbursed for their actual travel expenses on official business in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

65-1-106. Travel reimbursement for employees subject to comprehensive travel regulations.

All employees of the Tennessee public utility commission shall be reimbursed for travel expenses in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(a) No commissioner shall, directly or indirectly, accept any gift, gratuity, emolument, or employment from any person or corporation owning or operating any business or entity regulated by the Tennessee public utility commission, or from any officer, attorney, agent or employee thereof; nor shall any commissioner, directly or indirectly, solicit or request from or recommend to any such person or company, or to any officer, attorney, agent or employee thereof, the appointment of any person to any place or position with such business or entity during that commissioner’s continuance in office.

(b) It is unlawful for any such person or company or any officer, attorney, agent, or employee thereof to give or offer to give to the commissioners any gift, gratuity, emolument, employment, place, or appointment, for themselves or other persons.

(c) A violation of any of the provisions of this section shall subject the person or corporation so violating to a fine of not less than one thousand dollars ($1,000), and not more than five thousand dollars ($5,000). Any commissioner convicted of a violation of any provision of this section shall, in addition to the above penalty, be immediately dismissed from the office by the judgment of the court trying the case.


The Tennessee public utility commission shall be furnished a permanent office in Nashville, with all necessary furniture, stationery, and supplies, to be paid for by the state.

65-1-109. Executive director.

(a) The executive director shall be appointed by joint agreement among the governor, the speaker of the senate and the speaker of the house of representatives for the initial term. Thereafter, the commissioners of the commission shall appoint the executive director. The term of the executive director shall be three (3) years. The executive director shall have at a minimum a bachelor’s degree and either a minimum of five (5) years’ experience in the regulated utility industry or a minimum of five (5) years’ experience in executive-level management, with a preference toward experience in economics, law, finance, accounting or engineering. The executive director shall not be a commissioner of the commission.

(b) The commission may remove the executive director by a majority vote of the commissioners.

(c) The executive director shall have the principal responsibility of implementing the broad strategies, goals, objectives, long-range plans and policies of the commission. Among the executive director’s duties, which are not limited to the following list, are:

1. Serving as chief operating officer of the commission responsible for the day to day management of the commission and the supervision and hiring of all staff members within the limits of available funds authorized from time to time by the legislature;

2. Administering, monitoring, and reviewing the operating procedures of each division of the commission, ensuring that each employee and division of the commission fully executes in an efficient and economical manner, the
separate duties assigned to each;

(3) Submitting rules and policies for approval by the commission;

(4) Implementing and administering rules and policies for the efficient and economical internal management of the commission;

(5) Coordinating the preparation of the report to the general assembly as required by § 65-1-111;

(6) Supervising the expenditure of funds and being responsible for complying with all applicable state and federal law in the receipt and disbursement of funds; and

(7) Performing such other duties as the commission may require, from time to time, or as may be required by statute.

d) The governor shall set the compensation of the executive director for the initial term of office of the executive director, which shall not exceed the compensation established for the commissioners of the claims commission. Thereafter, the commissioners of the commission shall set the compensation of the executive director.

e) The executive director shall submit an annual report to the general assembly comparing telecommunications, electricity, natural gas, water and wastewater utility rates between Tennessee and the southeastern states. For the purpose of reporting rates in the report, the Tennessee public utility commission shall make comparisons on the basis of market choices made by consumers without regard to whether the services chosen are regulated or non-regulated services.

65-1-110. Minutes and official documents.

The minutes shall be signed by each member of the Tennessee public utility commission or by those present when any business is transacted. The minutes and all official documents of every kind shall be kept on file in the office of the commission.

65-1-111. Report to general assembly.

(a) The Tennessee public utility commission shall, on the first Monday of February each year, make a report to the general assembly and to the governor of all matters relating to its office for the preceding year, and such as will disclose the practical workings of companies under its jurisdiction in this state, along with such suggestions as it may deem proper, together with an abstract of the minutes of all of its meetings.

(b) [Deleted by 2016 amendment.]

65-1-112. Copies of records.

For a copy of any record on file in its office, the Tennessee public utility commission shall charge and receive the same fees that are charged by the secretary of state for similar services, and shall convey into the state treasury any amount so received.


It is the duty of the Tennessee public utility commission to ensure that Acts 1995, ch. 305 and all laws of this state over which they have jurisdiction are enforced and obeyed, that violations thereof are promptly prosecuted, and all penalties due the state are collected.
65-1-115. Members of former public service commission included in the executive service.

(a) In addition to the designations of preferred and executive service employees in § 8-30-202, the following members of the former public service commission shall be included in the executive service:

(1) Members of the Tennessee public utility commission;
(2) The executive director of the Tennessee public utility commission;
(3) The personal staff of the members of the Tennessee public utility commission;
(4) The division commissioners and assistant division commissioners of the Tennessee public utility commission; and
(5) Any attorneys employed by the Tennessee public utility commission.

(b) All actions of the department of human resources in regard to Tennessee public utility commission personnel transactions may, upon request of a majority of the commission's commissioners, be reviewed and revised, modified or reversed by action of the house finance, ways and means committee and the senate finance, ways and means committee.

65-1-116. Commissioners deemed state employees eligible for insurance benefits.

Tennessee public utility commission commissioners shall be deemed state employees as defined in § 8-27-201(g) [repealed and reenacted; see Compiler's Notes] and shall be eligible for participation in group insurance for state officials and employee plans as approved by the general assembly.


As used in this chapter, unless the context otherwise requires:

(1) “Commission” means the Tennessee public utility commission;
(2) “Contested case” means all proceedings before the commission in which the legal rights, duties, or privileges of specific parties are determined after a hearing before the commission; provided, that the fixing of rates shall be deemed a contested case rather than a rule-making proceeding; and
(3) “Rule” means every regulation, or statement of policy, or interpretation of general application and future effect, including the amendment or repeal thereof, adopted by the commission, whether with or without a prior hearing, to implement or make specific the laws enforced or administered by it, or to govern its organization or procedures, but does not include regulations concerning only the internal management of the commission which do not directly affect the rights or procedures available to the public.

65-2-102. Adoption, effective date and publication of rules.

(a) The commission is empowered and directed to adopt rules in the following circumstances and in the following manner:

(1) The commission shall adopt rules governing the procedure prescribed or authorized by this chapter or by any other statute applicable to the commission; these rules shall include, but shall not be limited to, rules of practice before the commission, together with forms and instructions;
(2) The commission is empowered to adopt rules implementing, interpreting, or making specific the various laws which it enforces or administers;
provided, that the commission shall have no power to vary or deviate from
those laws, nor to extend its power or jurisdiction to matters not provided for
in those laws;

(3) The commission may adopt, amend, or repeal such rules on its own
motion, or on the petition of any interested person. The commission shall
prescribe by rule the form of such petitions and the procedure for their
submission, consideration and disposition; provided, that the commission
shall abide by any such rule adopted by it, until it shall have been changed
in the manner provided for in this chapter; and

(4) Prior to the adoption of any rule, or to the amendment or repeal of any
rule, the commission shall, so far as practicable and in such manner as it
deems expedient, publish or otherwise circulate notice of its intended action,
and afford interested persons opportunity to submit data or argument in
such manner as the commission shall prescribe; provided, that no person
shall be entitled to challenge the validity of such a rule, or the amendment
or repeal of such a rule, on the grounds that such person failed to receive
such notice or was not given an opportunity to be heard.

(b) Rules adopted by the commission shall take effect at such date as the
commission shall direct. The commission shall compile and publish all rules
adopted by it in such manner and in such form as it deems expedient. The
commission shall also furnish copies of such compilations of its rules to all
persons requesting same at a price fixed by the authority to cover publication
and mailing costs.

65-2-103. Petitions to be in writing — Filing fees.

(a) Every petition filed with the commission shall be in writing and shall be
accompanied by a filing fee of twenty-five dollars ($25.00).

(b) Any petition filed on behalf of multiple parties shall be accompanied by
a payment of twenty-five dollars ($25.00) for each party.

65-2-104. Petition for declaratory ruling by the commission.

On the petition of any interested person, the commission may issue a
declaratory ruling with respect to the applicability to any person, property, or
state of facts of any rule or statute enforceable by it or with respect to the
meaning and scope of any order of the commission. A declaratory ruling, if
issued after argument and stated to be binding, is binding between the
commission and the petitioner on the state of facts alleged in the petition,
unless it is altered or set aside by a court in a proper proceeding. Such rulings
are subject to review in the chancery court of Davidson County in the manner
provided in this chapter for the review of decisions in contested cases. The
commission shall prescribe by rule the form for such petitions and the
procedure for their submission, consideration, and disposition.


The validity of any rule of the commission may be determined upon petition
for a declaratory judgment thereon addressed to the chancery court of
Davidson County, when it appears that the rule, or its threatened application,
interferes with or impairs, or threatens to interfere with or impair, the legal
rights or privileges of the petitioner. The commission shall be made a party to
all such proceedings. Such declaratory judgment may be rendered whether or not the petitioner has first requested the commission to pass upon the validity of the rule in question. In passing on such rules, the court shall declare the rule invalid only if it finds that it violates constitutional provisions or exceeds the statutory authority of the commission or was adopted without compliance with the rulemaking procedures provided for in this chapter.

65-2-106. Show cause orders.

The commission is empowered and authorized in the exercise of the powers and jurisdiction conferred upon it by law to issue orders on its own motion citing persons under its jurisdiction to appear before it and show cause why the commission should not take such action as the commission shall indicate in its show cause order appears justified by preliminary investigation made by the commission under the powers conferred upon it by law. All such show cause orders shall fully and specifically state the grounds and bases thereof, and the respondents named in the orders shall be given an opportunity to fully reply thereto. Show cause proceedings shall otherwise follow the provisions of this chapter with reference to contested cases, except where otherwise specifically provided.

65-2-107. Parties to contested cases.

All persons having a right under the provisions of the laws applicable to the commission to appear and be heard in contested cases as defined in this chapter shall be deemed parties to such proceedings for the purposes of this chapter. In addition, the commission may upon motion allow any interested person to intervene and become a party to any contested case.

65-2-108. Notice and hearing in contested cases.

All parties to contested cases shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved as specifically as may be practicable. At the hearing all parties shall be afforded an opportunity to present evidence and argument in accordance with the rules of the commission; provided, that informal disposition may also be made of any case by stipulation, agreed settlement, consent order, or default; and provided further, that this section shall not be applicable to proceedings otherwise provided for by law.


In all contested cases:

(1) The commission shall not be bound by the rules of evidence applicable in a court, but it may admit and give probative effect to any evidence which possesses such probative value as would entitle it to be accepted by reasonably prudent persons in the conduct of their affairs; provided, that the commission shall give effect to the rules of privilege recognized by law; and provided further, that the commission may exclude incompetent, irrelevant, immaterial or unduly repetitious evidence;

(2) All evidence, including records and documents in the possession of the commission of which it desires to avail itself, shall be offered and made a
part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference;

(3) Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence;

(4) The commission may take notice of judicially cognizable facts and, in addition, may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noted. The commission may utilize its experience, technical competence, and specialized knowledge in the evaluation of evidence presented to it; and

(5) The burden of proof shall be on the party or parties asserting the affirmative of an issue; provided, that when the commission has issued a show cause order pursuant to this chapter, the burden of proof shall be on the parties thus directed to show cause.


The commission is authorized and directed to employ a competent court reporter or stenographer, whose salary shall be paid out of the general appropriations for the commission, and whose duties shall be to attend all sessions of the commission, to take down and transcribe all testimony offered in contested cases, to prepare the official record of all contested cases, which record shall include all petitions, applications, testimony, exhibits and such other matters as required by law or as the commission may direct, and to perform such other duties as the commission may direct; provided, that the commission may, in its discretion, direct the reporter not to transcribe particular proceedings if it appears that no such transcript is necessary; and provided further, that any party to a contested case may obtain copies of the transcript of testimony made by the commission’s reporter upon the payment to the commission of the cost of same at such rate as the commission may determine.

65-2-111. Proceedings before hearing examiners.

In any contested case, the commission may direct that the proceedings or any part thereof shall be heard by a hearing examiner to be appointed by the commission; provided, that only the members of the commission and the regular employees of the commission shall be eligible to serve as such examiners. Proceedings before hearing examiners shall be according to this chapter, other applicable laws and the rules of the commission. Whenever a contested case, or any part thereof, is heard by a hearing examiner, the hearing examiner shall make a proposal for decision in writing which shall include findings of fact and conclusions of law made by the hearing examiner. Such proposals for decisions shall be served on all parties of record, and each party who would be adversely affected by the proposed decision shall be given an opportunity to file exceptions and present argument in writing to the commission itself. Before the commission shall enter a final order in such cases, the members thereof shall personally consider the entire record, or such portion thereof as may be cited by the parties, and shall make its decision in the form and manner prescribed by this chapter for decisions in contested cases.
65-2-112. Decisions and orders in contested cases.

Every final decision or order rendered by the commission in a contested case shall be in writing, or stated in the record, and shall contain a statement of the findings of fact and conclusions of law upon which the decision of the commission is based. Copies of such decisions or orders shall be delivered or mailed to each party or to the party's attorney of record.

65-2-113. Publication of decisions and orders in contested cases.

The commission shall each year compile and publish in such manner as it deems expedient such of its decisions or orders as it deems to be of general interest, and shall charge for copies of such compilations a reasonable price to cover the cost of publication and mailing. The commission may also include within such compilations decisions or orders with reference to the rules of the commission.

65-2-114. Petitions for rehearing in contested cases.

Any party to a contested case who deems to be aggrieved by a final order of the commission and who desires to have the same modified or set aside may within fifteen (15) days after the entry of such order file with the commission a written petition for rehearing, which shall specify in detail the grounds for the relief sought in the petition and authorities in support.


The filing of a petition for rehearing shall not suspend or delay the effective date of the commission's order, and the order shall take effect on the date fixed by the commission and shall continue in effect unless and until the petition is granted or until the order is superseded, modified, or set aside in a manner provided by law.


A petition for rehearing will lie only for the following grounds:

1. Some material error of law committed by the commission;
2. Some material error of fact committed by the commission; or
3. The discovery of new evidence sufficiently strong to reverse or modify the commission's order, and which could not have been previously discovered by due diligence.

65-2-118. Disposition of petitions for rehearing.

The commission may, in its discretion, set the petition down for hearing or enter an order with reference to the petition without a hearing; provided, that in any event the commission shall dispose of the petition within thirty (30) days after filing thereof. If the commission enters no order disposing of the petition within the thirty-day period, the petition shall be deemed to have been denied as of the expiration of the thirty-day period.


Upon the granting of a petition for rehearing by the commission, the commission shall set the matter for rehearing as soon as practicable. In
disposing of matters on rehearing, the commission shall have all the powers and shall follow the procedures of the chancery courts with reference to the disposition of rehearings in such courts, except as otherwise provided in this chapter.

65-2-122. Establishment of optional services purchased by regulated entities or unregulated service providers — Cost-based charges for services — Election to use services.

(a) The commission may establish optional services that may be purchased by regulated entities or other unregulated service providers, which are related to the exercise, administration or enforcement of jurisdiction delegated to the commission by state or federal law.

(b) The establishment of charges for services described in subsection (a) shall be cost-based.

(c) No charge for services as established in this section shall be applied to any party that does not expressly elect to use such services, and no party shall be required to elect to use such optional services as a condition of initiating any case before the commission.

65-4-101. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Competing telecommunications service provider” means any individual or entity that offers or provides any two-way communications service, telephone service, telegraph service, paging service, or communications service similar to such services and is certificated as a provider of such services after June 6, 1995, unless otherwise exempted from this definition by state or federal law;

(2) “Current authorized fair rate of return” means:
   (A) For an incumbent local exchange telephone company operating pursuant to a regulatory reform plan ordered by the former public service commission under TPSC rule 1220-4-2-.55, any return within the range contemplated by TPSC rule 1220-4-2-.55(1)(c)(1) or TPSC rule 1220-4-2-.55(d);
   (B) For any other incumbent local exchange telephone company, the rate of return on rate base most recently used by the former public service commission in an order evaluating its rates;

(3) “Gross domestic product-price index (GDP-PI)” used to determine limits on rate changes means the final estimate of the chain-weighted gross domestic product-price index as prepared by the United States department of commerce and published in the Survey of Current Business, or its successor;

(4) “Incumbent local exchange telephone company” means a public utility offering and providing basic local exchange telephone service as defined by § 65-5-108(a) pursuant to tariffs approved by the former public service commission prior to June 6, 1995;

(5) “Interconnection services” means telecommunications services, including intrastate switched access service, that allow a telecommunications service provider to interconnect with the networks of all other telecommunications service providers;

(6)(A) “Public utility” means every individual, copartnership, association, corporation, or joint stock company, its lessees, trustees, or receivers,
appointed by any court whatsoever, that own, operate, manage or control, within the state, any interurban electric railway, traction company, all other common carriers, express, gas, electric light, heat, power, water, telephone, telegraph, telecommunications services, or any other like system, plant or equipment, affected by and dedicated to the public use, under privileges, franchises, licenses, or agreements, granted by the state or by any political subdivision thereof. “Public utility” as defined in this section shall not be construed to include the following nonutilities:

(i) Any corporation owned by or any agency or instrumentality of the United States;

(ii) Any county, municipal corporation or other subdivision of the state of Tennessee;

(iii) Any corporation owned by or any agency or instrumentality of the state;

(iv) Any corporation or joint stock company more than fifty percent (50%) of the voting stock or shares of which is owned by the United States, the state of Tennessee or by any nonutility referred to in subdivisions (a)(1), (2), and (3);

(v) Any cooperative organization not organized or doing business for profit, cooperative association not organized or doing business for profit, or cooperative corporation not organized or doing business for profit. For purposes of this subdivision (6)(A)(v), “cooperative” shall mean only those nonprofit cooperative entities organized under or otherwise subject to the Rural Electric and Community Services Cooperative Act, compiled in chapter 25, part 2 of this title, or the Telephone Cooperative Act, compiled in chapter 29 of this title.

(vi) Any individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission; provided, that the real and personal property of such domestic public cellular radio telephone entities shall be assessed by the comptroller of the treasury pursuant to §§ 67-5-801(a)(1), 67-5-901(a)(1), and § 67-5-1301(a)(2); provided, however, that until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographical area within the state, the customer rates only of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee public utility commission pursuant to §§ 65-5-101 — 65-5-104. Upon existence in a cellular geographical area of the conditions set forth in the preceding sentence, domestic public cellular radio telephone service in such area, for all purposes, shall automatically cease to be treated as a public utility under this title. The Tennessee public utility commission’s authority over domestic public cellular radio telephone service is expressly limited to the above extent and the commission shall have no authority over resellers of domestic public cellular radio telephone service. For the purpose of this subdivision (6)(F), “authorized” means six (6) months after granting of the construction permit by the federal communications commission to the second entity or when the second entity begins offering service in the same cellular geographical area, whichever should first occur. This subdivision (6)(F) does not affect, modify or lessen the utility commission’s authority over public utilities that are subject to regulation pursuant to chapter 5 of
this title;
(vii) Any county, municipal corporation or other subdivision of a state bordering Tennessee, but only to the extent that such county, municipal corporation or other subdivision distributes natural gas to retail customers within the municipal boundaries and/or urban growth boundaries of a Tennessee city or town adjoining such bordering state;
(viii) Any of the foregoing nonutilities acting jointly or in combination or through a joint agency or instrumentality; and
(ix) For purposes of §§ 65-5-101 and 65-5-103, “public utility” shall not include interexchange carriers. “Interexchange carriers” means companies, other than incumbent local exchange telephone companies, owning facilities in the state which consist of network elements and switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the local access and transport area (LATA) boundaries within Tennessee;
(B)(i) “Public utility” does not mean nonprofit homeowners associations or organizations whose membership is limited to owners of lots in residential subdivisions, which associations or organizations own, construct, operate or maintain water, street light or park maintenance service systems for the exclusive use of that subdivision; provided, however, that the subdivisions are unable to obtain such services from the local utility district. None of the property, property rights or facilities owned or used by the association or organization for the rendering of such services shall be under the jurisdiction, supervision or control of the Tennessee public utility commission;
(ii) “Public utility” does not mean any nonprofit corporation, as defined in § 501(c)(4) of the Internal Revenue Code (26 U.S.C. § 501(c)(4)), which owns and operates a wastewater system primarily for the use of the members of the corporation and which has received a written statement of exemption from regulation as a public utility from the Tennessee public utility commission prior to January 1, 2009; and
(7) “Telecommunications service provider” means any incumbent local exchange telephone company or certificated individual or entity, or individual or entity operating pursuant to the approval by the former public service commission of a franchise within § 65-4-207(b), authorized by law to provide, and offering or providing for hire, any telecommunications service, telephone service, telegraph service, paging service, or communications service similar to such services unless otherwise exempted from this definition by state or federal law.

65-4-102. Railroads excluded.

None of the provisions of this chapter and none of the powers conferred upon the commission shall apply to any railroad, whether operated by an incorporated company or individual, which is operated in this state and which is regulated and governed by chapter 3 of this title.

65-4-104. Commission’s jurisdiction and control of public utilities.

(a) The commission has general supervisory and regulatory power, jurisdiction, and control over all public utilities, and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of
carrying out the provisions of this chapter. However, such general supervisory
and regulatory power and jurisdiction and control shall not apply to street
railway companies.

(b)(1) Any investor-owned electric power company serving Tennessee cus-
tomers on the western side of the Mississippi River shall provide those
Tennessee customers with the same level of service and charge the same
rates as the power company provides and charges similarly situated cus-
tomers in Arkansas.

(2) Upon a finding that an investor-owned electric power provider has
engaged in unjust or unreasonable discrimination in service or rates in
violation of subdivision (b)(1), the commission may order changes in the
provider’s services or rates to those Tennessee customers as necessary to
enforce subdivision (b)(1).

(3) The commission’s jurisdiction over an investor-owned electric power
company serving Tennessee customers on the western side of the Mississippi
River is limited to hearing a complaint alleging a violation of subdivision
(b)(1) and granting appropriate relief as provided in subdivision (b)(2).

(4) Nothing in this subsection (b) removes the duty of any investor-owned
electric power company to pay any required inspection and supervision fee to
the commission as required by part 3 of this chapter.

(5) Nothing in this subsection (b) removes the duty of any investor-owned
electric power company to pay its otherwise appropriate Tennessee state or
local taxes.

65-4-105. Extent of regulatory power of commission.

(a) In addition to the power conferred by this chapter on the commission, it
shall possess with reference to all public utilities within its jurisdiction all the
other powers conferred with reference to railroads regulated by the depart-
ment of transportation or transportation companies regulated by the depart-
ment of safety as provided by chapters 3 and 5 of this title.

(b) Where any existing contract between any public utility and any munici-
pality specifies that particular things, other than charging certain rates, tolls
or fares, shall continue to be done by such public utility, or the nature, kind,
and quality of any particular service to be rendered by the public utility to the
municipality or its people, nothing in this section nor in this title shall be
construed to authorize the commission to excuse such public utility from
continuing to do such specified things or from continuing to render and
perform the service of at least the nature, kind and quality specified in any
such existing contract; but, all these things involving the cost of the service
shall be taken into consideration by the commission in exercising its power to
pass upon the reasonableness of any rate, fare, or charge hereafter to be made
by such public utility.

(c) No provision of this section or of this title shall be construed to alter or
impair any existing contract between any public utility and any municipality
whereby it has been agreed that any payments of money, in addition to proper
ad valorem taxes, shall be made by any such public utility to or for the benefit
of any such municipality or its people, but all such things, involving the cost of
the service, shall be taken into consideration by the commission in exercising
its power to pass upon the reasonableness of any rate, fare or charge hereafter
to be made by such public utility.

(d) When any public utility regulated by the commission supplies its
services to consumers who use solar or wind-powered equipment as a source of energy, such public utility shall not discriminate against such consumers by its rates, fees or charges or by altering the availability or quality of energy. Any consumer who uses solar, wind power, or other auxiliary source of energy shall install and operate the equipment, property, or appliance for such energy source in compliance with any state or local code or regulation applicable to the safe operation of such equipment, property, or appliance.

(e) Any franchise payment or other payment for the use of public streets, alleys or other public places or any license, privilege, occupation or excise tax payment, which after February 24, 1961, may be made by a utility to a municipality or other political subdivision, except such taxes as are presently provided for under existing statutes and except such franchise payment or other payments as are presently exacted from the utility pursuant to the terms of any existing franchise or other agreement, shall, insofar as practicable, be billed pro rata to the utility customers receiving local service within the municipality or political subdivision receiving such payments, and shall not otherwise be considered by the commission in fixing the rates and charges of the utility.

(f) The commission shall further have jurisdiction over all utility districts created pursuant to Tennessee law, to the extent that the exercise of such jurisdiction is provided by title 7, chapter 82 and Acts 1951, ch. 51 as provided in this chapter or as amended.

65-4-106. Construction of chapter.

This chapter shall not be construed as being in derogation of the common law, but shall be given a liberal construction, and any doubt as to the existence or extent of a power conferred on the commission by this chapter or chapters 1, 3 and 5 of this title shall be resolved in favor of the existence of the power, to the end that the commission may effectively govern and control the public utilities placed under its jurisdiction by this chapter.

65-4-107. Approval of privilege or franchise.

(a) No privilege or franchise hereafter granted to any public utility by the state or by any political subdivision of the state shall be valid until approved by the commission, such approval to be given when, after hearing, the commission determines that such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interest, and the commission shall have power, if it so approves, to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interest may reasonably require; provided, however, that nothing contained in this chapter shall be construed as applying to the laying of sidings, sidetracks, or switchouts, by any public utility, and it shall not be necessary for any such public utility to obtain a certificate of convenience from the commission for such purpose.

(b) All terms, conditions, obligations, and rights of a privilege or franchise approved by the commission for the provision of natural gas service shall remain in effect until approval of a subsequent privilege or franchise by the commission.
65-4-108. Appeal to commission from local regulation.

Any such public utility may appeal to the commission from any order or regulation made by any local, municipal, or county governing body, and the commission is given power and jurisdiction to hear such appeal and to determine the matter in question on the merits and make such order in the premises as may be just and reasonable.

65-4-109. Issuance of stocks or other evidences of indebtedness.

No public utility shall issue any stocks, stock certificates, bonds, debentures, or other evidences of indebtedness payable in more than one (1) year from the date thereof, until it shall have first obtained authority from the commission for such proposed issue. It shall be the duty of the commission after hearing to approve any such proposed issue maturing more than one (1) year from the date thereof upon being satisfied that the proposed issue, sale and delivery is to be made in accordance with law and the purpose of such be approved by the commission.

65-4-110. Depreciation account for protection of holders of securities.

The commission has the power, after hearing, upon notice, by order in writing, to require every public utility as defined in § 65-4-101 to carry for the protection of stockholders, bondholders or holders of securities a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account, as the commission may prescribe. The commission shall have power to ascertain and determine, and by order in writing, after hearing, fix proper and adequate rates of depreciation of the property of each public utility, and each public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed, and shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund. The income from investments of moneys in such fund shall likewise be carried in such fund. This depreciation fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions, or additions to the property of such public utility, unless the commission shall by order in writing give permission to the public utility to divert the fund to purposes other than those named in this section.

65-4-111. Uniform system of accounting — Reports.

(a) The commission has the power, after hearing, upon notice, by order in writing, to require every public utility as defined in § 65-4-101 to keep its books, records, and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end to require every such public utility of the same class to adopt a uniform system of accounting. The accounting system shall conform, where applicable, to any system adopted or approved by the interstate commerce commission.

(b) The authority also has the power to require each such utility to furnish annually, or at such other times as the authority may require, a detailed report of finances and operations as shown by such system of accounts.
65-4-112. Utilities leasing, merging, or consolidating property.

(a) No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights and franchises of any other such public utility of like character shall be valid until approved by the commission, even though power to take such action has been conferred on such public utility by the state or by any political subdivision of the state.

(b) Any public utility as defined in § 65-4-101, may, without the approval or consent of the state or the commission, or any other agency of the state, sell, lease, or otherwise dispose of any of its property, including, but without limitation, franchises, rights, facilities, and other assets, and its capital stock, to any of the nonutilities defined in § 65-4-101.

65-4-113. Transfer of authority to provide utility services.

(a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the commission, to any individual, partnership, corporation or other entity without first obtaining the approval of the commission.

(b) Upon petition for approval of the transfer of authority to provide utility services, the commission shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The commission shall approve the transfer after consideration of all relevant factors and upon finding that such transfer furthers the public interest.

(c) Following approval of the transfer pursuant to this section, the transferee shall be granted full authority to provide the transferred services subject to the continuing regulation of the commission. The transferor shall no longer have any authority to provide the transferred services, but shall retain authority to provide other services, if any are retained, which were not included in such transfer.

(d) This section shall not apply to any transfers falling under § 65-4-112. This section shall apply to all other utility service transfers, including, but not limited to, the transfer of the authority to provide communications services held by a land line telephone company pursuant to § 65-30-105(h).

(e) To the extent transferees receiving authority under this section would be prohibited from performing the service by § 65-30-104, § 65-30-105(a), or § 65-30-105(f)(2), those sections are declared inapplicable.

65-4-114. Service requirements.

The commission has the power, after hearing, upon notice, by order in writing, to require every public utility, as defined in § 65-4-101, to:

(1) Furnish safe, adequate, and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so; and

(2) Establish, construct, maintain, and operate any reasonable extension of its existing facilities where, in the judgment of the commission, such extension is reasonable and practicable, and will furnish sufficient business
to justify the construction, operation, and maintenance of the same, and when the financial condition of the public utility warrants the original expenditure required in making such extension, or to abandon any service when, in the judgment of the commission, the public welfare no longer requires the same.

65-4-115. Unjust practices and unsafe services prohibited.

No public utility shall adopt, maintain, or enforce any regulation, practice, or measurement which is unjust, unreasonable, unduly preferential or discriminatory, nor shall any public utility provide or maintain any service that is unsafe, improper, or inadequate, or withhold or refuse any service which can reasonably be demanded and furnished when ordered by the commission.

65-4-117. Regulatory powers of commission — The 2-1-1 collaborative — Statewide 2-1-1 advisory council.

(a) The commission has the power to:

(1) Investigate, upon its own initiative or upon complaint in writing, any matter concerning any public utility as defined in § 65-4-101;

(2) Request the comptroller of the treasury, from time to time, appraise and value the property of any public utility, as defined in § 65-4-101, whenever in the judgment of the commission such appraisal and valuation shall be necessary for the purpose of carrying out any of the provisions of this chapter. The comptroller of the treasury's office is hereby authorized to make such valuation and in that process may have access to and use any books, documents or records in the possession of any department or board of the state or any political subdivision of the state. For purposes of rate regulation the Tennessee public utility commission has the specific authority to have access to books, documents or records in possession of any department or board of the state or any political subdivision of the state;

(3) After hearing, by order in writing, fix just and reasonable standards, classifications, regulations, practices or services to be furnished, imposed, observed and followed thereafter by any public utility;

(4) After hearing, by order in writing, ascertain and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, voltage, or other condition, pertaining to the supply of the product or service rendered by any public utility, and to prescribe reasonable regulations for examination, test and measurement of such product or service;

(5) After hearing, by order in writing, establish reasonable rules and regulations, specifications and standards, to secure accuracy of all meters and appliances for measurements;

(6) Provide for the examination and test of any appliance used for the measuring of any product or service of a public utility, and by its agents or examiners to enter upon any premises occupied by any public utility, for the purpose of making the examination and test provided for in this chapter; and

(7) Fix the fees to be paid by any consumer or user of any product or service of a public utility, who may apply to the commission for such examination or test to be made. Any consumer or user may have any such appliance tested upon the payment of the fees fixed by the commission, which fees shall be repaid to the consumer or user if the appliance be found defective or incorrect to the disadvantage of the consumer or user, and in
that event such fees shall be paid by the public utility concerned.

(b)(1) Not later than December 31, 2004, the commission shall designate an entity to be the 2-1-1 collaborative for the state of Tennessee, such 2-1-1 collaborative being designated in order to be qualified to obtain federal grants relating to 2-1-1 service in Tennessee. The commission may designate an entity to be the 2-1-1 collaborative based on either the petition of an entity seeking such designation, or based on the commission’s own motion.

(2)(A) There is created a statewide 2-1-1 advisory council consisting of up to eighteen (18) members who shall be appointed by the commission. The Tennessee Alliance of Information and Referral Systems and the United Ways of Tennessee shall submit recommendations to the commission for potential appointees to the advisory council. The advisory council shall be representative of the various 2-1-1 service stakeholders, including, but not limited to, governmental entities, call centers, non-profit organizations, foundations and corporate entities. In making recommendations for appointment to the advisory council, the Tennessee Alliance of Information and Referral Systems and the United Ways of Tennessee shall do so with a conscious intent of selecting persons who reflect a diverse mixture with respect to race and gender.

(B) The 2-1-1 advisory council is charged with advising and assisting the commission in establishing statewide standards that will ensure that the citizens of this state are served by an efficient and effective 2-1-1 service. To that end, the commission is empowered to promulgate rules and regulations that further define the role of the advisory council, that adopt standards for 2-1-1 service and as may otherwise be necessary to implement this subdivision (b)(2).

65-4-118. Consumer advocate division.

(a) There is created a consumer advocate division in the office of the attorney general and reporter which shall consist of various positions which may include attorneys, accountants/financial analysts, support personnel and other personnel as determined by the attorney general and reporter to be appropriate and necessary to accomplish the purposes of this section. As part of the annual appropriations process, the attorney general and reporter may request the general assembly to increase or eliminate positions within the division. The offices of the division shall be located wherever the attorney general and reporter, in the attorney general and reporter’s discretion, shall so choose.

(b)(1) The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the commission or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the commission.

(2) If the consumer advocate division concludes that it is without sufficient information to initiate a proceeding, it may petition the commission, after notice to the affected utility, to obtain information from the utility. The petition shall state with particularity the information sought and the type of
proceeding that may be initiated if the information is obtained. Additionally, the consumer advocate division may request information from the commission staff, and, if the commission staff is in possession of the requested information, such information shall be provided within ten (10) days of the request.

(c) If the consumer advocate division initiates an appeal of a commission decision, the defense of the appeal shall be the responsibility of the commission through its legal staff.

(d) The consumer advocate division may enter into agreements regarding the nondisclosure of trade secrets or other confidential commercial information obtained by the division.

(e) The attorney general and reporter shall hire, fire, supervise, direct and control the personnel and activities of the consumer advocate division, and the employees of the division shall be employees of the attorney general and reporter for the purposes of title 8, chapter 6.

(f) The attorney general and reporter shall prepare, each year, a budget for the consumer advocate division for the next fiscal year and submit the budget for inclusion in the attorney general and reporter's budget request for review and final approval by the general assembly. Reports on the operations and other matters relative to the consumer advocate division shall be filed by the attorney general and reporter with the general assembly and other governmental entities.

(g) The division shall be funded from the general fund as appropriated in the general appropriations act.

65-4-119. Complaints referred to employees.

Any person employed by the commission in the consumer advocate division may be assigned by the commission to investigate, hear, and, wherever possible, adjust any individual or general complaint made by any person against any such public utility, wherein its investment, property, service charges, or claims preferred against it, may be involved, and may hear and take proof, and, in the event the commission employee is unable to effect a satisfactory adjustment of any such complaint, then the commission employee shall certify the same to the commission, with recommendations in the premises, whereupon the commission shall, after hearing, make its final order, which shall be binding upon the parties to any such controversy.

65-4-120. Penalty for noncompliance with authority.

Any public utility which violates or fails to comply with any lawful order, judgment, finding, rule, or requirement of the commission, shall in the discretion of the commission be subject to a penalty of fifty dollars ($50.00) for each day of any such violation or failure, which may be declared due and payable by the commission, upon complaint, and after hearing, and when paid, either voluntarily, or after suit, which may be brought by the commission, shall be placed to the credit of the public utility account.

65-4-121. Appeals.

Any appeal, order, decision, ruling or action of the commission affecting any utility as defined in § 65-4-101, exclusive of railroads or common carriers, or
any company engaged in the transmission of intelligence or communications, shall be filed in a court of record of competent jurisdiction in the county in which the dispute or matters in controversy arose; and no other nisi prius court of this state shall have jurisdiction to hear and determine such appeal. In the event of an appeal from the judgment or order of circuit or chancery court reviewing such order, or judgment, such appeal shall be prosecuted to the court of appeals in the grand division of the state in which the dispute or matters in controversy arose; and any appeal therefrom shall be perfected to the supreme court.

65-4-124. Administrative rules.

(a) All telecommunications services providers shall provide non-discriminatory interconnection to their public networks under reasonable terms and conditions; and all telecommunications services providers shall, to the extent that it is technically and financially feasible, be provided desired features, functions and services promptly, and on an unbundled and non-discriminatory basis from all other telecommunications services providers.

(b) The Tennessee public utility commission shall, at a minimum, promulgate rules and issue such orders as necessary to implement the requirements of subsection (a) and to provide for unbundling of service elements and functions, terms for resale, interLATA presubscription, number portability, and packaging of a basic local exchange telephone service or unbundled features or functions with services of other providers.

(c) These rules shall also ensure that all telecommunications services providers who provide basic local exchange telephone service or its equivalent provide each customer a basic White Pages directory listing, provide access to 911 emergency services, provide free blocking service for 900/976 type services, provide access to telecommunications relay services, provide Lifeline and Link-Up Tennessee services to qualifying citizens of the state and provide educational discounts existing on June 6, 1995.

(d) The granting of applications for certificates of convenience and necessity to competing telecommunications service providers or the adoption of a price regulation plan for incumbent local exchange telephone companies is not dependent upon the promulgation of these rules.

65-4-125. Changes in telecommunications service provider — Regulation — Enforcement — Surety bond or irrevocable letter of credit.

(a) No telecommunications service provider, and no person acting on behalf of any telecommunications service provider, shall designate or change the provider of telecommunications services to a subscriber if the provider or person acting on behalf of the provider knows or reasonably should know that such provider or person does not have the authorization of such subscriber.

(b) No telecommunications service provider, and no person acting on behalf of any telecommunications service provider, shall bill and collect from any subscriber to telecommunications services any charges for services to which the provider or person acting on behalf of the provider knows or reasonably should know such subscriber has not subscribed, or any amount in excess of that specified in the tariff or contract governing the charges for such services.

(c) The Tennessee public utility commission shall establish a consumer
complaint form on the Internet for reporting telecommunications service providers or persons acting on their behalf who charge the provider of telecommunications services in violation of this section. Any Internet sites which are maintained by the commission, the general assembly or the governor’s office shall contain a link to such form.

(d) The Tennessee public utility commission shall adopt rules implementing this section, including, without limitation, rules specifying the manner in which subscriber authorization may be obtained and confirmed.

(e) The Tennessee public utility commission may entertain and decide complaints and issue orders, including, without limitation, show cause orders, to enforce this section and its rules against any telecommunications service provider, or any person acting on behalf of any telecommunications service provider.

(f) A telecommunications provider or person acting on behalf of a telecommunications provider who violates any provision of this section, any regulation promulgated pursuant to this section or any order issued to enforce the provisions of this section shall be subject to a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each day of any such violation. Such civil penalty shall be due and payable to the commission and shall be credited to the public utility account. The commission shall consider mitigating factors as raised by the telecommunications service provider in assessing the amount of the civil penalty. The commission shall allocate at least twenty-five percent (25%) of the revenue collected from such civil penalty for consumer education.

(g) Any telecommunications provider or person acting on behalf of a telecommunications provider who violates this section or regulations promulgated pursuant to this section shall pay damages to each subscriber affected by such conduct in an amount equal to all charges and fees for services for which the subscriber has not subscribed, including all amounts in excess of allowable charges for such services, and any cost incurred to reinstate the subscriber’s original telecommunications service.

(h) This section shall not have the effect of amending or superseding any provisions of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

(i) This section shall not have the effect of superseding any existing rules of the Tennessee public utility commission, or any order or proceeding to enforce such existing rules. Any such existing rules shall remain in effect until such time as the Tennessee public utility commission adopts new rules pursuant to this section.

(j) By September 1, 2000, all telecommunications service providers subject to the control and jurisdiction of the commission, except those owners or operators of public telephone service who pay annual inspection and supervision fees pursuant to § 65-4-301(b), or any telecommunications service provider that owns and operates equipment facilities in Tennessee with a value of more than five million dollars ($5,000,000), shall file with the commission a corporate surety bond or irrevocable letter of credit in the amount of twenty thousand dollars ($20,000) to secure the payment of any monetary sanction imposed in any enforcement proceeding, brought under this title or the Consumer Telemarketing Protection Act of 1990, compiled in title 47, chapter 18, part 15, by or on behalf of the commission.
65-4-126. State policy on using energy more efficiently.

The general assembly declares that the policy of this state is that the Tennessee public utility commission will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the commission has rate making authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provides timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.

65-4-201. Certificate required — Bond or other security required for projects proposed by public utilities providing wastewater service.

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the commission, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.

(b) Except as exempted by state or federal law, no individual or entity shall offer or provide any individual or group of telecommunications services, or extend its territorial areas of operations without first obtaining from the Tennessee public utility commission a certificate of convenience and necessity for such service or territory; provided, however, that no telecommunications services provider offering and providing a telecommunications service under the authority of the commission on June 6, 1995, is required to obtain additional authority in order to continue to offer and provide such telecommunications services as it offers and provides as of June 6, 1995.

(c)(1) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the commission shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the commission finds:

(A) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(B) The applicant possesses sufficient managerial, financial and technical abilities to provide the applied for services.
(2) An commission order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

(e) The commission shall direct the posting of a bond or other security by a public utility providing wastewater service or for a particular project proposed by a public utility providing wastewater service. The purpose of the bond or other security shall be to ensure the proper operation and maintenance of the public utility or project. The commission shall establish by rule the form of such bond or other security, the circumstances under which a bond or other security may be required, and the manner and circumstances under which the bond or other security may be forfeited.

(1) The requirement under this subsection (e) to post a bond or other security by a public utility providing wastewater service shall also satisfy the requirement on such a public utility to provide a bond or other financial security to the department of environment and conservation as required by § 69-3-122.

(2) The commission shall establish by rule the amount of such bond or other security for various sizes and types of facilities.

(3) Notwithstanding any other law, posting a bond or other security under this subsection (e) or § 69-3-122, shall not be required until January 1, 2006, or until the commission’s rules become effective, whichever occurs first. Such rules may be promulgated as emergency rules.


If any public utility, in establishing, constructing, reconstructing, or extending its route, line, plant or system, shall interfere or be about to interfere with the existing route, line, plant, or system of any other public utility, the commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions in harmony with this part as are just and reasonable. The commission shall have power, after a hearing involving the financial ability and good faith of the applicant, the necessity for additional service in the municipality or territory, and such other matters as it deems relevant, to issue a certificate of public necessity and convenience, or to refuse to issue the same or to issue it for the establishment or construction of a portion only of the contemplated plant, route, line, or system, or extension thereof, or for the partial exercise only of such right or privilege, and may attach to the exercise of the rights granted by the certificate such terms and conditions as to time or otherwise as in its judgment the public convenience, necessity, and protection may require, and may forfeit such certificate after issuance, for noncompliance with its terms, or provide therein for an ipso facto forfeiture of the same for
failure to exercise the rights granted within the time fixed by the commission; provided, that nothing in this part shall be construed as requiring such certificate for a municipally owned plant, project, or development.

65-4-203. Basis for granting certificate — Notice of hearing.

(a) The commission shall not grant a certificate for a proposed route, plant, line, or system, or extension thereof, which will be in competition with any other route, plant, line, or system, unless it shall first determine that the facilities of the existing route, plant, line, or system are inadequate to meet the reasonable needs of the public, or the public utility operating the same refuses or neglects or is unable to or has refused or neglected, after reasonable opportunity after notice, to make such additions and extensions as may reasonably be required under this part.

(b) In all proceedings under this section, the commission shall give at least ten (10) days’ notice to the authorities of, and the public utilities operating in, the municipality or territory affected.

(c) This section shall not apply to telecommunications service providers.

65-4-204. Public hearing on certificate — Plans and information required of applicant.

The commission may, upon its own initiative, or shall upon written application of any party in interest, order a public hearing with due notice to all interested parties, at which hearing the person proposing to create the development of water power or other plant or equipment, or extension of the same, shall be required to file with the commission, under oath, engineering plans and other information fully descriptive of the proposed development or such thereof as in the opinion of the commission can reasonably be furnished by such applicant, together with such other information as may be called for at the hearing or any adjournment of the same; and the commission shall have full power to issue or refuse the certificate of public necessity and convenience, or to qualify or withdraw the same as provided in § 65-4-203.

65-4-205. Evidence.

All evidence taken by the commission in any such hearing or hearings shall be taken under oath and may be treated as evidence in any court.

65-4-208. Interstate transmission of electric power.

(a) Notwithstanding any other law, no person, firm or corporation not engaged on March 22, 1955, in the business of generating, transmitting, distributing, or furnishing electric power shall extend or construct transmission or distribution lines or other works into or within the state, directly or indirectly enter the state, for the purpose of delivering within the state electric power generated at a point or points outside the state, unless such person, firm or corporation shall have first submitted its plans for such extension, construction or entry to the commission and shall have obtained from the commission a certificate of public convenience and necessity covering the same. The commission shall deny such certificate if, after a hearing, the commission cannot affirmatively establish that the granting of such certificate would serve the public interest.

(b) This section shall not apply to the federal government or any federal
agency, to the state of Tennessee or any agency or political subdivision of the state, or to any cooperative association organized under the former Electric Cooperative Act or the former Electric Membership Corporation Act, but shall be fully applicable to any private corporation organized under the laws of this or any other state and to any public corporation of any other state, irrespective of the nature, identity or governmental or other public status of the purchaser, consumer, or other party to whom electric power is to be delivered within the state.

(c) The provisions of this section shall be cumulative and the requirements contained in this section shall be in addition to, and not in substitution for, the requirements contained in any other law.

65-4-301. Fees required.

(a)(1) Every public utility doing business in this state and subject to the control and jurisdiction of the commission to which this chapter applies, shall pay to the state on or before April 1 of each year, a fee for the inspection, control and supervision of the business, service and rates of such public utility.

(2) Fees collected by the commission pursuant to this part shall be expended by the commission for the inspection, control and supervision of the business service and rates of such public utilities as established in subdivision (a)(1). In addition, the Tennessee public utility commission may grant, on a one-time basis, an amount not to exceed four hundred thousand dollars ($400,000) from the public utilities account, as defined in § 65-4-307, to the 2-1-1 collaborative for the purpose of defraying start-up costs associated with the establishment of 2-1-1 telephone service to cover all parts of the state. Such grant may be made only after public notice is provided by the Tennessee public utility commission, specifically giving all public utilities, which are currently doing business in this state and subject to the control and jurisdiction of the commission, the opportunity to raise objection to such grant. The commission shall consider any objection timely filed in response to the commission notice prior to making such grant.

(b) Every owner or operator of a public pay telephone service who is not a public utility paying a fee in accordance with subsection (a), and who is authorized to provide such service pursuant to commission regulation, shall pay an annual inspection and supervision fee of ten dollars ($10.00) for each service location. Such fee shall be paid on or before July 1 of each year.

65-4-303. Fee measured by gross receipts from intrastate operations — Rates.

(a) The amount of the fee provided for in this section shall be measured by the amount of the gross receipts from intrastate operations of each public utility in excess of five thousand dollars ($5,000).

(b)(1) Except as provided in subdivision (b)(2), “gross receipts from intrastate operations”:

(A) Means total revenues, before any deductions, which are recognized by the commission as utility revenue for the purpose of setting intrastate rates under chapter 5 of this title; and

(B) Does not include any revenues from directory operations; provided, that the exclusion of these revenues from directory operations shall not affect the power of the commission to include or exclude these revenues in
setting intrastate rates.

(2) For companies that elect market regulation pursuant to § 65-5-109(m), “gross receipts from intrastate operations” means the total revenue derived from the provision of intrastate services to non-affiliated telecommunications carriers, including specifically revenue from interconnection, collocation, billing and collection, inter-carrier compensation, services sold for resale and carrier access; provided, that revenue derived from the provision of retail services and products to consumers that are not telecommunications carriers is excluded.

(c)(1) The fee fixed and assessed against and to be paid by each public utility shall be due and payable on or before April 1, 2014, and each April 1 thereafter, and shall be based on the previous calendar year’s gross receipts from intrastate operations. The fee shall be four dollars and twenty-five cents ($4.25) per one thousand dollars ($1,000) of such gross receipts over five thousand dollars ($5,000), except as set forth in subdivision (c)(2) for companies that provide telecommunications services.

(2)(A) Notwithstanding the calculations in subdivision (c)(1), the minimum inspection fee for companies that elect market regulation pursuant to § 65-5-109(m) shall be forty-nine percent (49%) of the inspection fee that was due by such company on April 1, 2012. Such companies shall file with their fee payments a calculation of both the fee as calculated under subdivision (c)(1) and the alternative minimum calculation established in this subdivision (c)(2)(A).

(B) Notwithstanding the calculation in subdivision (c)(1), the maximum inspection fee for a company providing telecommunications services that does not elect to enter market regulation shall be the inspection fee that was due by such company on April 1, 2012.

(C) In no event, however, shall the minimum inspection fee for any telecommunications service company be less than one hundred dollars ($100).

(d) The fee shall be due and payable on or before April 1, 2014, and each April 1 thereafter.

(e) The fee provided for in this section may be recovered by a public utility operating under rate of return regulation through either a rate case proceeding pursuant to § 65-5-103 or a separate recovery mechanism to be determined by the commission. Nothing in this section shall alter the manner in which public utilities that operate under price regulation or market regulation, pursuant to § 65-5-109, may set rates. Nothing in this section shall alter the limitations on the jurisdiction of the commission over market-regulated companies in § 65-5-109. A public utility may recoup its inspection fees by including a line item on its subscribers’ bills.

65-4-305. Information required of utility.

Annually, every such public utility doing business in this state shall file with the commission a statement under oath, in such form and substance as may be prescribed by the commission, setting forth accurately the amount of its gross receipts from all sources for the preceding calendar year. Any such public utility failing to file such statement as required, or failing to give such other information as may be reasonably required of such public utility, commits a Class C misdemeanor for each day of such failure to comply.

The inspection, control and supervision fees provided for in this part shall be collected by the commission. Such fees, when collected, shall be deposited in the state treasury but shall be kept in a separate account, to be known as the “public utilities account” and the funds so raised shall thus be segregated.

65-4-308. Default.

In case of default in the payment of any fee, or part thereof, when the same shall become due, as provided in § 65-4-306, any such public utility in default shall be liable for a penalty of ten percent (10%) per month or fraction thereof, on the amount of the fee, which may be recovered by suit of the state for every month it remains in default, and any such penalty, when collected, shall be deposited into the state treasury as a part of the utilities account; provided, that out of any such penalty, the commission may employ and pay counsel, who shall have power to institute suit in any court of competent jurisdiction for the recovery of such penalty, but in no event shall anything more than the penalty be allowed to such counsel for making such collections.

65-4-401. Part definitions.

As used in this part, unless the context otherwise requires:

1) “Commission” means the Tennessee public utility commission;

2) “Caller identification service” means telephone service which notifies telephone subscribers of the telephone number of incoming telephone calls;

3) “Local exchange company” includes telecommunications service providers as defined in § 65-4-101, competing telecommunications service providers as such term is defined in § 65-4-101, telephone cooperatives, and cellular or other wireless telecommunications providers;

4) “Person” means a natural person, individual, partnership, corporation, trust, estate, incorporated or unincorporated association and any other legal or commercial entity however organized and wherever located that telemarkets to citizens located within the state of Tennessee;

5) “Residential subscriber” means a person who has subscribed to residential telephone service from a local exchange company or the other persons living, residing or visiting with such person; and

6) “Telephone solicitation” means any voice communication over a telephone originating from Tennessee or elsewhere that:

   (i) Promotes or encourages, directly or indirectly, the purchase of, rental of, or investment in property, goods, or services;
   (ii) Refers a residential subscriber to another person for the purpose of promoting or encouraging the purchase of, rental of, or investment in property, goods, or services; or
   (iii) Requests a charitable contribution except as provided for in subdivision (6)(B)(ii);

B) “Telephone solicitation” does not include voice communications to any residential subscriber:

   (i) With that subscriber’s prior express permission;
   (ii) If the communication is made by a bona fide member, volunteer or direct employee of a not-for-profit organization exempt from paying taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)).
provided the voice communication is made to request a charitable contribution to be used solely for such not-for-profit organization’s exempt purpose;

(iii) Who is an existing customer. For the purposes of this part, an “existing customer” includes a residential subscriber with whom the person or entity making a telephone solicitation has had a prior relationship within the prior twelve (12) months; or

(iv) If the communication is made on behalf of a business and all of the following conditions are met:

(a) A direct employee of the business makes the voice communication;

(b) The communication is not made as part of a telecommunications marketing plan;

(c) The business has a reasonable belief that the specific person who is receiving the voice communication is considering purchasing the service or product sold or leased by the business and the call is specifically directed to such person;

(d) The business does not sell or engage in telemarketing services; and

(e) The business does not make more than a total of three (3) such voice communications in any one (1) calendar week.

65-4-404. Calls to persons objecting to solicitation.

No person or entity shall knowingly make or cause to be made any telephone solicitation to any residential subscriber in this state who has given notice to the commission, in accordance with regulations promulgated pursuant to this part, of such subscriber’s objection to receiving telephone solicitations.

65-4-405. Database of persons objecting to solicitation — Regulations — Enforcement actions.

(a) The commission shall establish and provide for the operation of a database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations. It shall be the duty of the commission to have such database in operation no later than May 1, 2000. Such database may be operated by the commission or by another entity under contract with the commission.

(b) No later than January 1, 2000, the commission shall promulgate regulations which:

1. Require each local exchange company to semi-annually inform its residential subscribers of the opportunity to provide notification to the commission or its contractor that such subscriber objects to receiving telephone solicitations;

2. Specify the methods by which each residential subscriber may give notice to the commission or its contractor of such subscriber’s objection to receiving such solicitations or revocation of such notice;

3. Specify the length of time for which a notice of objection shall be effective and the effect of a change of telephone number on such notice;

4. Specify the methods by which such objections and revocations shall be collected and added to the database;
(5) Specify the methods by which any person or entity desiring to make telephone solicitations will obtain access to the database as required to avoid calling the telephone numbers of residential subscribers included in the database; and

(6) Specify such other matters that the commission deems necessary to implement this part.

(c) If, pursuant to 47 U.S.C. § 227(c)(3), the federal communications commission establishes a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, the commission shall include the part of such single national database that relates to Tennessee in the database established under this part.

(d)(1) A person or entity desiring to make telephone solicitations to any residential subscriber shall pay to the commission by certified check or money order, on or before March 15, 2000, an annual registration fee of five hundred dollars ($500) to defray regulatory and enforcement expenses. Such annual registration fee shall allow access to the Do Not Call Register compiled from the database established under this part; such registration and access shall be limited to the time period April 1, 2000 until June 30, 2001, or any part thereof. Thereafter, the registration deadline and annual time period shall be determined by rule duly promulgated by the commission.

(2) Unlimited electronic copies of the Do Not Call Register shall be available to persons or entities upon their payment of the annual registration fee. A fee shall be established by rule of the commission for paper copies of the Do Not Call Register.

(3) Fifteen (15) days after the registration deadline, the non-payment of any required fee is a violation of this part. The telephone solicitation of any residential subscriber listed in the Do Not Call Register compiled from the database established under this part, by any person or entity who is not duly registered and who is not otherwise exempted by law, is a violation of this part.

(4) As used in this subsection (d), “entity” includes any parent, subsidiary, or affiliate of a person.

(e) Information contained in the database established under this part shall not be subject to public inspection or disclosure under title 10, chapter 7. Such information shall be used only for the purpose of compliance with this part or in a proceeding or action under this part.

(f) The commission is authorized to initiate proceedings relative to a violation of this part or any rules and regulations promulgated pursuant to this part. Such proceedings include without limitation proceedings to issue a cease and desist order, to issue an order imposing a civil penalty up to a maximum of two thousand dollars ($2,000) for each knowing violation, and to seek additional relief in any court of competent jurisdiction. Each violation shall be calculated in a liberal manner to deter violations and to protect consumers. Each violation may include each telephone solicitation made to a residential subscriber that was on the list that the violator telephoned. The commission is authorized to issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in the course of investigating a violation of this part, in accordance with this title. All civil penalties assessed pursuant to this part shall be deposited in the public utilities account in the state treasury.

(g) No later than January 1, 2000, the commission shall hold a hearing to
receive testimony from entities subject to this part who employ independent contractors to make telephone solicitations to determine if the commission should authorize such independent contractors to access the database at a reduced fee. The commission is authorized to allow such access and develop a fee schedule for access to the database by independent contractors and the entity which employs such contractors.

(h) As supplementary to the commission granted in this part, the attorney general and reporter, at the request of the commission, may bring an action in any court of competent jurisdiction in the name of the state against any person or entity relative to a violation of this part or any rules and regulations promulgated pursuant to this part. The courts are authorized to issue orders and injunctions to restrain and prevent violations of this part, and such orders and injunctions shall be issued without bond. In any action commenced by the state, the courts are authorized to order reasonable attorneys’ fees and investigative costs be paid by the violator to the state. An action brought by the attorney general and reporter may also include other causes of action such as but not limited to a claim under the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

(i) Upon request of any person, the commission shall initiate a rulemaking proceeding establishing the rules pursuant to which a registrant may share the Do Not Call Register with persons affiliated with the registrant as an independent contractor or member.

(j) On and after January 1, 2012, for purposes of this section, “residential subscriber” also means a state government telephone subscriber.

65-4-410. Do Not Call Register.

(a) Residential telephone subscribers may enroll on the Tennessee Do Not Call Register in the manner prescribed by the commission. Enrollment shall take effect thirty (30) days following the first day of the succeeding month of enrollment by the subscriber.

(b) State government telephone subscribers may enroll on the Tennessee Do Not Call Register in a manner prescribed by the commission; provided, that only the administrative head, or such person’s designee, for each state department, agency, board, commission and other entity of the state, including the legislative branch and the judicial branch, may designate telephone numbers for such department, agency, board, commission or other entity of the state to be enrolled on the register. Enrollment shall take effect thirty (30) days following the first succeeding month of enrollment.

65-4-501. Part definitions.

As used in this part, unless the context otherwise requires:

1. “Commission” means the Tennessee public utility commission;
2. “Fax” or “facsimile” means:
   A. Every process in which electronic signals are transmitted by telephone lines for conversion into written text or other graphic images; but
   B. “Fax” or “facsimile” does not include:
      i. Electronic mail or “e-mail” as regulated pursuant to title 47, chapter 18, part 25; or
      ii. Any transmission of electronic signals by a local exchange company to the extent that the local exchange company merely carries that
transmission over its network;

(3) “Local exchange company” includes telecommunications service providers as defined in § 65-4-101, competing telecommunications service providers as such term is defined in § 65-4-101, telephone cooperatives, and cellular or other wireless telecommunications providers, or interactive computer service provider as defined by 47 U.S.C. § 230(f);

(4) “Person” means a natural person, individual, partnership, trust, estate, incorporated or unincorporated association, any corporation, parent, subsidiary or affiliate thereof, or any other legal or commercial entity however organized and wherever located;

(A) “Affiliate” of a specific person means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, is under common control with, the person specified;

(B) “Parent” means a company owning more than fifty percent (50%) of the voting shares, or otherwise a controlling interest, of another company; and

(C) “Subsidiary” means a corporation with more than fifty percent (50%) of its outstanding voting shares being owned by its parent or the parent’s other subsidiaries; and

(5) “Unsolicited facsimile advertisement” means any material advertising the commercial availability or quality of any property, goods, or services, that is transmitted by fax to any person located within the state of Tennessee without such person’s prior express invitation or permission, and is transmitted from Tennessee or elsewhere for the purpose of offering the extension of credit or encouraging the purchase or rental of, or investment in, property, goods, or services.

65-4-503. Implementation.

The commission is authorized to promulgate any rules and regulations necessary to implement and effectuate this part.


(a) The commission is authorized to initiate proceedings relative to a violation of this part or any rules and regulations promulgated pursuant to this part. Such proceedings include, without limitation, proceedings to: issue a cease and desist order; issue an order imposing a civil penalty up to a maximum of two thousand dollars ($2,000) for each violation; and to seek additional relief in any court of competent jurisdiction. Violations shall be calculated in a liberal manner to deter violators and to protect consumers. Each page of each unsolicited facsimile advertisement may constitute a separate violation.

(b) In the course of investigating an alleged violation of this part, the commission is authorized to issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in accordance with this title. After proper notice, any such hearing shall be conducted in conformance with commission rules and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. All civil penalties assessed pursuant to this part shall be deposited in the public utilities account in the state treasury.

(a) The Tennessee public utility commission has the power after hearing upon notice, by order in writing, to fix just and reasonable individual rates, joint rates, tolls, fares, charges or schedules thereof, as well as commutation, mileage, and other special rates which shall be imposed, observed, and followed thereafter by any public utility as defined in § 65-4-101, whenever the commission shall determine any existing individual rate, joint rate, toll, fare, charge, or schedule thereof or commutation, mileage, or other special rates to be unjust, unreasonable, excessive, insufficient, or unjustly discriminatory or preferential, howsoever the same may have heretofore been fixed or established. In fixing such rates, joint rates, tolls, fares, charges or schedules, or commutation, mileage or other special rates, the commission shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility.

(b) Notwithstanding any other state law, special rates and terms negotiated between public utilities that are telecommunications providers and business customers shall not constitute price discrimination. Such rates and terms shall be presumed valid. The presumption of validity of such special rates and terms shall not be set aside except by complaint or by action of the Tennessee public utility commission commissioners, which Tennessee public utility commission action or complaint is supported by substantial evidence showing that such rates and terms violate applicable legal requirements other than the prohibition against price discrimination. Records of such special rates and terms shall be retained by the telecommunications provider for the length of time that such rates and terms apply, but shall not be filed with the commission. Such rates shall be effective upon execution by the parties.

(c) Notwithstanding any other law, the tariffs of incumbent local exchange telephone companies establishing rates or terms, or both, for telecommunications services shall be filed with the commission and shall be effective twenty-one (21) days after filing, subject to the following requirements:

1. Tariffs establishing rates or terms that are valid only for one hundred eighty (180) days or less shall be effective one (1) business day after filing;
2. Tariffs may be revoked by the commission after notice and a hearing;
3. Tariffs may be suspended pending such hearing on a showing by a complaining party that:
   i. The complaining party has filed a complaint before the commission alleging with particularity that the tariff violates a specific law;
   ii. The complaining party would be injured as a result of the tariff and has specifically alleged how it would be so injured; and
   iii. The complaining party has a substantial likelihood of prevailing on the merits of its complaint;
4. The commission may suspend a tariff pending a hearing, on its own motion, upon finding such suspension to be in the public interest. The standard established herein for suspension of tariffs shall apply at all times including the twenty-one (21) or one (1) day period between filing and effectiveness;
5. The commission may choose to convene a contested case to consider revocation of a tariff. The commission may choose to convene a contested case, or decline to convene
a contested case, in its own discretion, to promote the public interest. The standard established in this subdivision (c)(3) for suspension of tariffs shall not be applicable in any way to any decision by the commission regarding revocation of a tariff;

(4) Nothing in this subsection (c) shall alter the existing power of the commission to review those rate increases that are governed by price regulation or rate of return; and

(5) Notwithstanding this subsection (c), the commission may, in its discretion, shorten the twenty-one (21) day period between filing and effectiveness for good cause shown.

(d) In fixing rates, joint rates, tolls, fares, charges, or schedules for service, no privately owned public utility that supplies water to municipal governments is allowed to charge rates, joint rates, tolls, fares, charges, or schedules of any kind whatsoever in connection with fire hydrant service to a municipal government providing fire protection services within the service area. The utility, however, may recover its costs of providing fire hydrant service by charging rates, joint rates, tolls, fares, charges or schedules to its non-municipal government customers within the service area as approved by the Tennessee public utility commission. New rates shall take effect as prescribed by the Tennessee public utility commission in a rate proceeding. Such rate proceeding shall be initiated by the utility or the Tennessee public utility commission itself. Such rate proceeding shall be commenced within 120 days after May 18, 2004. The utility shall continue to collect its current authorized rates from a municipality until new rates are placed into effect by the Tennessee public utility commission. The municipal government will reimburse the state for any consequent increase in expenditures to the state, up to fifty thousand dollars ($50,000), which results directly from this subsection (d).

65-5-102. Commission may require filing of schedules.

The commission has the power to require every such public utility to file with it complete schedules of every classification employed and of every individual or joint rate, toll, fare, or charge made or exacted by it for any product supplied or service rendered within this state as specified in such requirement.

65-5-103. Changes in utility rates, fares, schedules — Implementation of alternative regulatory methods to allow for public utility rate reviews and cost recovery in lieu of a general rate case proceeding.

(a) When any public utility shall increase any existing individual rates, joint rates, tolls, fares, charges, or schedules thereof, or change or alter any existing classification, the commission shall have power either upon written complaint, or upon its own initiative, to hear and determine whether the increase, change or alteration is just and reasonable. The burden of proof to show that the increase, change, or alteration is just and reasonable shall be upon the public utility making the same. In determining whether such increase, change or alteration is just and reasonable, the commission shall take into account the safety, adequacy and efficiency or lack thereof of the service or services furnished by the public utility. The commission shall have authority pending such hearing and determination to order the suspension, not exceeding three (3) months from the date of the increase, change, or alteration until the
commission shall have approved the increase, change, or alteration; provided, that if the investigation cannot be completed within three (3) months, the commission shall have authority to extend the period of suspension for such further period as will reasonably enable it to complete its investigation of any such increase, change or alteration; and provided further, that the commission shall give the investigation preference over other matters pending before it and shall decide the matter as speedily as possible, and in any event not later than nine (9) months after the filing of the increase, change or alteration. It shall be the duty of the commission to approve any such increase, change or alteration upon being satisfied after full hearing that the same is just and reasonable.

(b)(1) If the investigation has not been concluded and a final order made at the expiration of six (6) months from the date filed of any such increase, change or alteration, the utility may place the proposed increase, change or alteration, or any portion thereof, in effect at any time thereafter prior to the final commission decision thereon upon notifying the commission, in writing, of its intention so to do; provided, that the commission may require the utility to file with the commission a bond in an amount equal to the proposed annual increase conditioned upon making any refund ordered by the commission as provided in subdivision (b)(2).

(2) Where increased rates or charges are thus made effective, the interested utility shall maintain its records in such a manner as will enable it, or the commission, to determine the amounts to be refunded and to whom due, in the event a refund is subsequently ordered by the commission as provided in this subdivision (b)(2). Upon completion of the hearing and decision, the commission may order the utility to refund, to the persons in whose behalf such amounts were paid, such portion of such increase, change or alteration as shall have been collected under bond and subsequently disallowed by the commission. If the commission, at any time during the initial three (3) months' suspension period, finds that an emergency exists or that the utility's credit or operations will be materially impaired or damaged by the failure to permit the rates to become effective during the three-month period, the commission may permit all or a portion of the increase, change or alteration to become effective under such terms and conditions as the commission may by order prescribe. Any increase, change or alteration placed in effect under this subsection (b) under bond may be continued in effect by the utility, pending final determination of the proceeding by final order of the commission or, if the matter be appealed, by final order of the appellate court. Should the final order of the commission be appealed while increased rates or charges are being collected under bond, the court shall have power to order an increase or decrease in the amount of the bond as the court may determine to be proper. In the event that all or any portion of such rates or charges have not been placed into effect under bond before the commission, the court considering an appeal from an order of the commission shall have the power to permit the utility to place all or any part of the rates or charges into effect under bond.

(c) In the event the commission, by order, directs any utility to make a refund, as provided in subsection (b), of all or any portion of such increase, change or alteration, the utility shall make the same within ninety (90) days after a final determination of the proceeding by final order of the commission or, if the matter be appealed, by final order of the appellate court, with lawful
(d)(1)(A) The commission is authorized to implement alternative regulatory methods to allow for public utility rate reviews and cost recovery in lieu of a general rate case proceeding before the commission.

(B) For all alternative regulatory methods, the commission is authorized to develop minimum filing requirements and procedural schedules; provided, however, that a final determination of the commission pursuant to any alternative regulatory method be made by the commission no later than one hundred twenty (120) days from the initial filing by the public utility.

(C) If the commission denies an alternative regulatory method filed by a public utility, the commission shall set forth with specificity the reasons for its denial and the public utility shall have the right to refile, without prejudice, an amended plan or amendment within sixty (60) days of the issuance of a final order. The commission shall thereafter have sixty (60) days to approve or deny the amended plan or amendment.

(2)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both, if such expenses or costs are found by the commission to be in the public interest, related to any one (1) of the following:

(i) Safety requirements imposed by the state or federal government;
(ii) Ensuring the reliability of the public utility plant in service; or
(iii) Weather-related natural disasters.

(B) The commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in such safety and reliability facilities, including the return on safety and reliability investments at the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.

(3)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to the expansion of infrastructure for the purpose of economic development, if such expenses or costs are found by the commission to be in the public interest. Expansion of economic development infrastructure may include, but is not limited to, the following:

(i) Infrastructure and equipment associated with alternative motor vehicle transportation fuel;
(ii) Infrastructure and equipment associated with combined heat and power installations in industrial or commercial sites; and
(iii) Infrastructure that will provide opportunities for economic development benefits in the area to be directly served by the infrastructure.

(B) The commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in such economic development facilities, including the return on such economic development investments at the rate of return approved by the commission at the public utility's most recent general rate case pursuant to § 65-5-101 and subsection (a), upon a finding that such mechanism or adjustment is in the public interest.
public interest.

(4)(A)(i) A public utility may request and the commission may authorize a mechanism to recover expenses associated with efforts to promote economic development in its service territory, if such expenses are found by the commission to be in the public interest.

(ii) Efforts to promote economic development may include, but are not limited to, foregone revenues associated with economic development riders and rates.

(iii) Expenses described in subdivision (d)(4)(A)(ii) may be reflected in cost of service and be subject to recovery through the annual review process in subdivision (d)(6).

(B) Upon a finding that expenses to promote economic development have been incurred, the commission shall authorize a separate recovery mechanism or adjust rates to recover such expenses or grant recovery through the annual review process set forth in subdivision (d)(6), upon a finding that such mechanism or adjustment is in the public interest.

(5)(A) A public utility may request and the commission may authorize a mechanism to recover the operational expenses, capital costs or both related to other programs that are in the public interest.

(B) A utility may request and the commission may authorize a mechanism to allow for and permit a more timely adjustment of rates resulting from changes in essential, nondiscretionary expenses, such as fuel and power and chemical expenses.

(C) Upon a finding that such programs are in the public interest, the commission shall grant recovery and shall authorize a separate recovery mechanism or adjust rates to recover operational expenses, capital costs or both associated with the investment in other programs, including the rate of return approved by the commission at the public utility’s most recent general rate case pursuant to § 65-5-101 and subsection (a).

(6)(A) A public utility may opt to file for an annual review of its rates based upon the methodology adopted in its most recent rate case pursuant to § 65-5-101 and subsection (a), if applicable.

(B) In order for a public utility to be eligible to make an election to opt into an annual rate review, the public utility must have engaged in a general rate case pursuant to § 65-5-101 and subsection (a) within the last five (5) years; provided, however, that the commission may waive such requirement or increase the eligibility period upon a finding that doing such would be in the public interest.

(C) Pursuant to the procedures set forth in subdivision (d)(1), the commission shall review the annual filing by the public utility within one hundred twenty (120) days of receipt and order the public utility to make the adjustments to its tariff rates to provide that the public utility earns the authorized return on equity established in the public utility’s most recent general rate case pursuant to § 65-5-101 and subsection (a).

(D)(i) A public utility may terminate an approved annual review plan only by filing a general rate case pursuant to § 65-5-101 and subsection (a).

(ii) The commission may terminate an approved annual review plan only after citing the public utility to appear and show cause why the commission should not take such action pursuant to the procedures in § 65-2-106.
(iii) The commission or the public utility may propose a modification to the approved annual review plan for consideration by the commission. The commission shall determine whether any proposed modification is in the public interest and should be approved within the time frame set forth in subdivision (d)(6)(C). If the commission denies a modification to the approved annual review plan, the commission shall set forth with specificity the reasons for its denial.

(7) In addition to the alternative regulatory methods described in this subsection (d), a public utility may opt to file for other alternative regulatory methods. Upon a filing by a public utility for an alternative method not prescribed, the commission is empowered to adopt policies or procedures, that would permit a more timely review and revisions of the rates, tolls, fares, charges, schedules, classifications or rate structures of public utilities, and that would further streamline the regulatory process and reduce the cost and time associated with the ratemaking processes in § 65-5-101 and subsection (a).

(e) For purposes of this section, “public utility” does not include a telecommunications carrier that elects market regulation pursuant to § 65-5-109.

65-5-105. Intrastate rate reductions reflecting tax savings.

Any public utility, the maximum rates of which are fixed by the commission, shall reduce its intrastate rates to reflect any tax savings resulting from Acts 1989, ch. 312. Such rate reduction shall be implemented contemporaneously with the effective date of the tax savings.

65-5-106. Operator-assisted telephone services — Carriers whose rates exceed maximum approved rates.

(a) Any telephone carrier offering or providing operator-assisted services in Tennessee whose intrastate rates exceed the maximum rate approved by the Tennessee public utility commission or whose interstate rates exceed the maximum rates approved by the federal communications commission (FCC) shall before providing the service:

1. Identify by name the carrier providing the service;
2. State all costs for providing the service; and
3. Offer to switch the customer to any other carrier offering operator-assisted services and inform the customer that the switch will be made without charge.

(b) As used in this section:

1. “Maximum rate approved by the federal communications commission (FCC)” means the highest legal rate charged for handling an identical call by a carrier which has been classified by the FCC as a dominant, interstate carrier or, if no carrier has been so classified, means the highest rate approved by the FCC as just and reasonable for an identical call;
2. “Maximum rate approved by the Tennessee public utility commission” means the highest legal rate charged for handling an identical call by a carrier whose rates have been fixed by the commission based on the carrier’s cost of providing service; and
3. “Operator-assisted services” means all telephone calls in which the customer is assisted by either a human or mechanical operator and includes, but is not limited to, calls billed to credit cards or third parties and all collect
or person-to-person calls.

(c) The commission may exempt any carrier from some or all of the provisions of this section upon a finding that the requirements are no longer necessary to protect the public interest.

(d) Any telephone carrier violating this section is guilty of violating the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1, and shall be punished accordingly.

65-5-107. Universal service — Funding.

(a) In order to ensure the availability of affordable residential basic local exchange telephone service, the commission shall formulate policies, promulgate rules and issue orders which require all telecommunications service providers to contribute to the support of universal service.

(b) The commission shall create an alternative universal service support mechanism that replaces current sources of universal service support only if it determines that the alternative will preserve universal service, protect consumer welfare, be fair to all telecommunications service providers, and prevent the unwarranted subsidization of any telecommunications service provider’s rates by consumers or by another telecommunications service provider. To accomplish these objectives, the commission, if it creates or subsequently modifies an alternative universal service support mechanism, shall:

1. Restrict recovery from the mechanism by any telecommunications service provider to an amount equal to the support necessary to provide universal service;

2. Consider provision of universal service by incumbent local exchange telephone companies and by other telecommunications service providers;

3. Order only such contributions to the universal service support mechanism as are necessary to support universal service and fund administration of the mechanism;

4. Administer the universal service support mechanism in a competitively neutral manner, and in accordance with established commission rules and federal statutes;

5. Determine the financial effect on each universal service provider caused by the creation or a modification of the universal service support mechanism, and rebalance the effect through a one-time adjustment of equal amount to the rates of that provider;

6. When ordering a modification, include changes in the cost of providing universal service in the rebalancing required by subdivision (b)(5);

7. When performing its duties under subdivisions (b)(5) and (6), order no increase in the rates for any interconnection services; and

8. Consider, at a minimum:

A. The amount by which the embedded cost of providing residential basic local exchange telephone service exceeds the revenue received from the service, including the cost of the carrier-of-last-resort obligation, for both high- and low-density service areas;

B. The extent to which rates for residential basic local exchange telephone service should be required to meet the standards of § 65-5-108(c); and

C. Intrastate access rates and the appropriateness of such rates as a significant source of universal service support.

(c) The commission shall monitor the continued functioning of universal
service mechanisms and shall conduct investigations, issue show cause orders, entertain petitions or complaints, or adopt rules in order to assure that the universal service mechanism is modified and enforced in accordance with the criteria set forth in this section.

(d) Nothing in this section shall be construed to require the commission to raise residential basic local exchange telephone service rates.

(e) Any universal service support mechanism created pursuant to this part shall hereafter be known as the universal service program. To implement any such universal service program, there is established a special reserve account in the state’s general fund to be funded and allocated in accordance with this section and rules promulgated by the commission. Such fund shall be known as the universal service program support mechanism fund. Moneys from the fund may be expended in accordance with such universal service program. Any moneys deposited in the fund shall remain in such account until expended for purposes consistent with such program and shall not revert to the general fund on any June 30. Any interest earned by deposits in such account shall not revert to the general fund on any June 30 but shall remain in such account until expended for purposes consistent with the universal service program.

65-5-108. Classification of services — Exempt services — Price floor — Maximum rates for non-basic services.

(a) Services of incumbent local exchange telephone companies who apply for price regulation under § 65-5-109 are classified as follows:

(1) “Basic local exchange telephone services” are telecommunications services which are comprised of an access line, dial tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area, Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on June 6, 1995, or other services required by state or federal statute. These services shall, at a minimum, be provided at the same level of quality as is being provided on June 6, 1995. Rates for these services shall include both recurring and nonrecurring charges.

(2) “Non-basic services” are telecommunications services which are not defined as basic local exchange telephone services and are not exempted under subsection (b). Rates for these services shall include both recurring and nonrecurring charges.

(b) The commission, after notice and opportunity for hearing, may find that the public interest and the policies set forth in this part are served by exempting a service or group of services from all or a portion of the requirements of this part. Upon making such a finding, the commission may exempt telecommunications service providers from such requirements as appropriate. The commission shall in any event exempt a telecommunications service for which existing and potential competition is an effective regulator of the price of those services.

(c) Effective January 1, 1996, an incumbent local exchange telephone company shall adhere to a price floor for its competitive services subject to such determination as the commission shall make pursuant to § 65-5-107. The price floor shall equal the incumbent local exchange telephone company's tariffed rates for essential elements utilized by competing telecommunications
service providers plus the total long-run incremental cost of the competitive elements of the service. When shown to be in the public interest, the commission shall exempt a service or group of services provided by an incumbent local exchange telephone company from the requirement of the price floor. The commission shall, as appropriate, also adopt other rules or issue orders to prohibit cross-subsidization, preferences to competitive services or affiliated entities, predatory pricing, price squeezing, price discrimination, tying arrangements or other anti-competitive practices.

(d) The maximum rate for any new non-basic service first offered after June 6, 1995, shall not exceed the stand-alone cost of the service.


(a) Rates for telecommunications services are just and reasonable when they are determined to be affordable as set forth in this section. Using the procedures established in this section, the commission shall ensure that rates for all basic local exchange telephone services and non-basic services are affordable on the effective date of price regulation for each incumbent local exchange telephone company.

(b) An incumbent local exchange telephone company shall, upon approval of its application under subsection (c), be empowered to, and shall charge and collect only such rates that are less than or equal to the maximum permitted by this section and subject to the safeguards in § 65-5-108(c) and (d) and the non-discrimination provisions of this title.

(c) The commission shall enter an order within ninety (90) days of the application of an incumbent local exchange telephone company implementing a price regulation plan for such company. With the implementation of a price regulation plan, the rates existing on January 1, 2009, for all basic local exchange telephone services and non-basic services, as defined in § 65-5-108, are deemed affordable if the incumbent local exchange telephone company’s earned rate of return on its most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j) is equal to or less than the company’s current authorized fair rate of return existing at the time of the company’s application. If the incumbent local exchange telephone company’s earned rate of return on its most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j) is greater than the company’s current authorized fair rate of return, the commission shall initiate a contested, evidentiary proceeding to establish the initial rates on which the price regulation plan is based. The commission shall initiate such a rate-setting proceeding to determine a fair rate of return on the company’s rate base using the actual intrastate operating revenues, expenses, rate base and capital structure from the company’s most recent Tennessee public utility commission 3.01 report as audited by the commission staff pursuant to subsection (j). If the incumbent local exchange telephone company’s earned rate of return is less than its current authorized fair rate of return, the company may request the commission to initiate a contested, evidentiary proceeding to establish the initial rates upon which the price regulation plan is based. Upon request by the incumbent local exchange telephone company, the commission shall initiate such a contested, evidentiary proceeding using the same rate-setting procedures described above. Rates established pursuant to the above process shall be the
initial rates on which a price regulation plan is based, subject to such further adjustment as may be made by the commission pursuant to § 65-5-107. Nothing in this section shall require a company that has elected price regulation prior to 2009 to reapply for price regulation or to reset its rates under its price regulation plan. Such a company is entitled, in its sole discretion, to the 1995 rates upon which its original election was based or may base its price regulation calculation upon rates in effect as of January 1, 2009.

(d) If not resolved by agreement, the commission shall, on petition of the competing telecommunications services provider, hold a contested case proceeding within thirty (30) days to establish initial rates for new interconnection services provided by an incumbent local exchange telephone company subsequent to June 6, 1995, which rates shall be set in accordance with Acts 1995, ch. 408. The commission shall issue a final order within twenty (20) days of the proceeding.

(e) A price regulation plan shall maintain affordable basic and non-basic rates by permitting a maximum annual adjustment that is capped at the lesser of one-half ($\frac{1}{2}$) the percentage change in inflation for the United States using the gross domestic product-price index (GDP-PI) from the preceding year as the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for basic local exchange telephone services or non-basic services only so long as its aggregate revenues for basic local exchange telephone services or non-basic services generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by the price regulation plan.

(f) Notwithstanding the annual adjustments permitted in subsection (e), the initial basic local exchange telephone service rates of an incumbent local exchange telephone company subject to price regulation shall not increase for a period of four (4) years from the date the incumbent local exchange telephone company becomes subject to such regulation. At the expiration of the four-year period, an incumbent local exchange telephone company is permitted to adjust annually its rates for basic local exchange telephone services in accordance with the method set forth in subsection (e); provided, that the rate for residential basic local exchange telephone service shall not be increased in any one (1) year by more than the percentage change in inflation for the United States using the gross domestic product-price index (GDP-PI) from the preceding year as the measure of inflation. Nothing in this subsection (f) shall be construed to prohibit or limit residential basic local exchange rate increases or aggregate revenues permitted in subsection (e) caused by:

1. Revenue neutral rate proposals that rebalance access revenue or touchtone revenue to residential basic local exchange service;
2. Revenue neutral rate proposals that expand local calling areas; or
3. Rate regrouping when it is based on population growth or expanded local calling such that there is an increase in the number of lines that end-users within the rate group can reach by local calling and the rate group no longer corresponds to the rate group definitions in a carrier’s approved tariffs.

(g) Notwithstanding any other provision of this section, a price regulation plan shall permit a maximum annual adjustment in the rates for interconnection services that is capped at the lesser of one-half ($\frac{1}{2}$) the percentage change in inflation for the United States using the gross domestic product-price index
(GDP-PI) from the preceding year as the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for interconnection services only so long as its aggregate revenues generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by this subsection (g); provided, that each new rate must comply with the requirements of § 65-5-108 and the non-discrimination provisions of this title. Upon filing by a competing telecommunications service provider of a complaint, such rate adjustment shall become subject to commission review of the adjustment’s compliance with this section and rules promulgated under this section. The commission shall stay the adjustment of rates and enter a final order approving, modifying or rejecting such adjustment within thirty (30) days of the complaint.

(h) Incumbent local exchange telephone companies subject to price regulation may set rates for non-basic services as the company deems appropriate, subject to the limitations set forth in subsections (e) and (g), the non-discrimination provisions of this title, any rules or orders issued by the commission pursuant to § 65-5-108(c) and upon prior notice to affected customers. Rates for call waiting service provided by an incumbent local exchange telephone company subject to price regulation shall not exceed, for a period of four (4) years from the date the company becomes subject to such regulation, the maximum rate in effect in the state for such service on January 1, 2009; provided, however, that the maximum rate shall not apply to companies becoming subject to that regulation after June 1, 2009.

(i) Incumbent local exchange telephone companies subject to price regulation are not required to seek regulatory approval of their depreciation rates or schedules.

(j) For any incumbent local exchange telephone company electing price regulation under subsection (c), the commission shall conduct an audit to assure that the Tennessee public utility commission 3.01 report accurately reflects, in all material respects, the incumbent local exchange telephone company’s achieved results in accordance with generally accepted accounting principles as adopted in Part 32 of the uniform system of accounts, and the ratemaking adjustments to operating revenues, expenses and rate base used in the commission’s most recent order applicable to the incumbent local exchange telephone company. Nothing herein is to be construed to diminish the audit powers of the commission; provided, however, that such an audit shall not be conducted for a local exchange telephone company electing price regulation after June 1, 2009.

(k) Incumbent local exchange telephone companies subject to price regulation shall maintain their commitment to the FYI Tennessee master plan to the completion of the funded requirements with any alterations to the plan to be approved by the commission.

(l)(1) Any nonincumbent certificated provider of local exchange telephone or intrastate long distance telephone service or any incumbent certificated provider of local exchange or intrastate long distance telephone service that has elected price regulation pursuant to subsections (a)–(k) may, in its sole discretion, elect to operate pursuant to market regulation, by filing notice of its intent to do so with the commission, which shall be effective immediately upon filing.

(2) For purposes of the rural exemption under 47 U.S.C. § 251 only, the election to operate pursuant to market regulation by a rural incumbent
certificated provider of local exchange or intrastate long distance telephone service, as provided in this section, shall constitute an acknowledgement that a bona fide request for interconnection or services is not unduly economically burdensome, is technically feasible, will not present a risk of a significant adverse economic impact on users of telecommunications services generally, is consistent with 47 U.S.C. § 254 and is consistent with the public interest, convenience and necessity. This subdivision (l)(2) shall not apply to any telephone cooperative organized pursuant to § 65-29-102.

(m) Upon election of market regulation by a certificated provider, the provider shall be exempt from all commission jurisdiction, including, but not limited to, state-based regulation of retail pricing or retail operations, except as defined in subsection (n). Notwithstanding the limitations on commission jurisdiction over market-regulated companies under state law as set forth in this section, it is the express intent of the general assembly that the Tennessee public utility commission is authorized as a matter of state law to receive any jurisdiction delegated to it by the federal 1996 Telecommunications Act, in 47 U.S.C. § 214(e), or federal communications commission (FCC) orders or rules, including, without limitation, jurisdiction granted to hear complaints regarding anti-competitive practices, to set rates, terms and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements. In addition, the commission shall continue to exercise its jurisdiction in its role as a dispute resolution forum to hear complaints between certificated carriers, including complaints to prohibit anti-competitive practices and to issue orders to resolve such complaints. The commission shall interpret and apply federal, not state, substantive law, which is hereby adopted so that such law is applicable to intrastate services for the purpose of adjudicating such state complaints. The commission shall adjudicate and enforce such claims in accordance with state procedural law and rules, including the enforcement and penalty provisions of § 65-4-120. No claim shall be brought to the Tennessee public utility commission as to which the FCC has exclusive jurisdiction. All complaints brought between carriers pursuant to this section shall be resolved by final order of the commission within one hundred eighty (180) days of the filing of the complaint.

(n) A certificated provider electing market regulation shall be subject to the jurisdiction of the commission only when:

(1) The commission is exercising its jurisdiction as described in subsection (m);

(2) The commission is acting with respect to enforcement or modification of any wholesale self effectuating enforcement mechanism plan in place as of January 1, 2009; provided, that such actions are consistent with federal telecommunications law;

(3) The commission is assessing and collecting inspection fees calculated in accordance with chapter 4, part 3 of this title and election of market regulation shall not alter the character of any intrastate revenue or remove any source of intrastate revenue formerly included within gross receipts and used for purposes of assessment of the fees;

(4) The commission is exercising jurisdiction over video service franchises pursuant to the Competitive Cable and Video Services Act, compiled in title 7, chapter 59, part 3;

(5) The commission is exercising jurisdiction respecting underground facilities damage prevention;
(6) The commission is exercising jurisdiction respecting the Tennessee relay center services or the Tennessee Devices Access Program pursuant to § 65-21-115;
(7) The commission is exercising jurisdiction respecting the small and minority-owned business participation plan pursuant to § 65-5-112;
(8) The commission is exercising jurisdiction respecting universal service funding pursuant to § 65-5-107;
(9) The commission is exercising jurisdiction respecting intrastate switched access service;
(10) The commission is exercising jurisdiction respecting extensions of facilities pursuant to § 65-4-114(2), except that no market-regulated carrier shall be subject to the regulatory commission jurisdiction in this subdivision (n)(10) in any wire center or geographic area the carrier designates by filing notice of such designation with the regulatory commission. Such notice shall be effective immediately upon filing and not subject to regulatory commission review;
(11) The commission is exercising jurisdiction pursuant to § 65-4-125; provided, however, that the commission shall exercise its jurisdiction under subsections (a) or (b) only in connection with a complaint.

(o) Incumbent local exchange providers that have elected market regulation shall not be entitled to the limitation on commission jurisdiction in subsection (n) with respect to those residential local exchange telecommunications services that are offered in exchanges with less than three thousand (3,000) access lines or, for carriers who serve more than one million (1,000,000) access lines in this state, those exchanges with access line counts and calling areas that would result in classification as rate group 1 or 2 under any such carrier’s tariff in effect on January 1, 2009, and that are offered as single, individually priced services at a rate-group specific price rather than a state-wide or territory-wide price, except as follows:

(1) Upon petition by a market-regulated provider, the commission may order that such services shall be subject to the limitations on jurisdiction in subsection (n) by showing that each exchange has at least two (2) nonaffiliated telecommunications providers that offer service to customers in each zone rate area of each exchange;

(2) When counting the number of providers for the purpose of evaluating the competition standard in subdivision (o)(1), cable television providers that offer telephone and broadband services to residential customers may be included. Nonaffiliated providers of wireless service may be included in the count of providers but shall only count as one (1) provider regardless of the number of wireless providers. Nonaffiliated providers of voice over Internet protocol service shall not be counted for the purpose of evaluating the competitive exemption for residential service, unless the carrier seeking exemption offers a data service capable of supporting voice over Internet protocol service and does not require the purchase of voice telephony products to buy the data service. At least one (1) provider must be facilities-based and currently serving residential customers;

(3) When the petitioning party shows facts satisfying the competition standard set forth in subdivision (o)(1), the petitioner shall be entitled to a rebuttable presumption that the competition standard is satisfied;

(4) The petition shall be subject to an accelerated schedule. The commission must issue its decision on the petition, including its reasons, within
ninety (90) days of the filing of the petition;

(5) Unregulated providers of service shall not be required to participate in the commission’s docket considering the petition, but, to the extent such competitors intervene, they shall be required to provide discovery responses regarding the activities of the unregulated provider in such rate groups or exchanges. To the extent the petitioner seeks, but is unable to obtain discovery response from intermodal or unregulated providers regarding the competition present in such rate groups or exchanges, the petitioner shall be entitled to a rebuttable presumption that the unregulated provider is offering service in the area that is the subject of the petition;

(6) Whether or not such a petition is filed or granted, the limitations on commission jurisdiction set forth in subsection (n) shall automatically become applicable to all services of a market-regulated provider as of January 1, 2015; and

(7) The petition provided for in this subsection (o) shall be filed no earlier than one (1) year following May 21, 2009.

(p) Notwithstanding this section, providers that elect market regulation shall remain subject to the Tennessee Consumer Protection Act, compiled in title 47, chapter 18.

(q) Each year the commission shall prepare and submit to the general assembly a report describing the competitive nature of the communications market in Tennessee.

(1) The report shall, at a minimum, contain the following information:

(A) The number of telecommunications providers, including the technology used to provide service;

(B) The number of providers by county serving residential subscribers;

(C) The number of providers by county serving business subscribers; and

(D) The number of customers by customer type.

(2) In preparing the report, the commission shall rely on information filed with the commission or available as public information. The commission shall invite all providers of telecommunications services, including companies operating under market regulation, price cap regulation pursuant to this section, rate of return regulation, competitive carriers, wireless carriers, carriers offering voice over Internet protocol service, cable operators or other carriers known to provide such service in this state, to provide voluntary reports supplying information relating to the items in subdivision (q)(1) and relating to the services and products offered in this state and any other information the provider volunteers concerning future plans for deployment, new services, new technology or the scope of competition.

(r) In the event that a carrier has elected market regulation and later chooses to exit the business of providing local exchange telephone service in an exchange by selling all of its network in that exchange to another entity, then the following shall apply:

(1) If the purchasing entity is a certificated carrier of local exchange telephone service in this state, then no regulatory requirements shall apply, except that nothing in this section shall preclude the exercise of commission jurisdiction as set forth in subsection (m); and

(2) Any purchasing entity that applies for a certificate in connection with a sale of the type described in this section shall be subject to no greater standards than those applied by the commission for other entities seeking
certification pursuant to § 65-4-201; and a commission order granting or
denying the certificate, including appropriate findings of fact and conclu-
sions of law, shall be entered no later than thirty (30) days from the filing of
the application.

(s) Notwithstanding any other laws to the contrary, including, but not
limited to, subsections (c) and (j), the earnings of an incumbent local exchange
company operating under rate of return regulation shall not be considered in
setting initial rates under this section for an incumbent local exchange
company implementing a price regulation plan after January 1, 2009.

(t) Notwithstanding any law to the contrary, any certificated provider of
local exchange telephone service subject to market regulation may, at its
election, file a tariff with the commission governing the rates, terms and
conditions of any of its services. Such filed tariff shall become effective upon
filing and be deemed approved, unless rejected by the commission upon finding
that the tariff violates applicable law within twenty-one (21) days of filing. The
approval of a tariff under this subsection (t) shall constitute publication and
notice to consumers of the provisions of the tariff, specifically those provisions
governing carrier and consumer liability, for purposes of the filed rate doctrine.
Unless rejected as provided herein, such tariffs shall constitute binding tariffs
to the same extent as tariffs of other providers not subject to market
regulation, including application of the filed rate doctrine, and shall be subject
to the rules and regulations of the commission governing customer notices to
the same extent as such rules apply to providers not subject to market
regulation.

(u) The regulatory commission is prohibited from creating any new pro-
grams mandating discounts on retail telecommunications services or equip-
ment without providing reimbursement to carriers. Any such unfunded dis-
count program mandated by rules or orders of the regulatory commission or
public service commission that was in place as of March 26, 2013, shall
terminate sixty (60) days following March 26, 2013. Nothing in this subsection
(u) shall apply to existing regulatory commission programs providing services
for the hearing impaired.

(v) The regulatory commission shall not impose any requirements relating
to issuance or maintenance of a certificate pursuant to § 65-4-201 on any
market-regulated entity or on any affiliate of a market-regulated entity.


(a) In addition to any other jurisdiction conferred, the commission shall
have the original jurisdiction to investigate, hear and enter appropriate orders
to resolve all contested issues of fact or law arising as a result of the application

(b) The consumer advocate shall retain all powers with respect to Acts 1995,
ch. 408 as is provided in § 65-4-118, or any future legislation.

(c) Nothing in Acts 1995, ch. 408 shall be construed as removing the powers
of the former commission pursuant to § 65-5-102.

(d) Nothing in Acts 1995, ch. 408 shall affect the authority and duty of the
former commission to complete any investigation pending as of June 6, 1995.

(e) Nothing in Acts 1995, ch. 408 shall be construed to affect the assessment
for ad valorem taxation of property used to provide telecommunications
services, and to that end it is declared that the fifty-five percent (55%) level of
assessments shall remain applicable to property used in whole or in part to provide telecommunications services other than cellular telephone services, radio common carrier services, or long distance telephone services.

65-5-111. Evaluation — Reports by commission.

The general assembly shall evaluate the implementation of Acts 1995, ch. 408, every two (2) years for not less than the next six (6) years by requiring the submission of a report prepared by the commission consisting of the following information:

1. The compliance of market participants with Acts 1995, ch. 408;
2. The status of universal service in Tennessee;
3. The availability of service capabilities and service offerings, subdivided by facilities-based and non-facilities-based, for each telecommunications services provider;
4. The number of customers, access lines served, and revenues, subdivided by residential and business, for each telecommunications services provider;
5. The impact of federal telecommunications initiatives;
6. The degree of technological change in the marketplace;
7. The technical compatibility between providers;
8. The service performance of providers; and
9. Any other information the commission considers necessary for proper oversight and evaluation.

65-5-112. Small and minority-owned telecommunications business participation plan.

Each telecommunications service provider shall file with the commission a small and minority-owned telecommunications business participation plan within sixty (60) days of June 6, 1995. Competing telecommunications service providers shall file such plan with the commission with their application for a certificate. Such plan shall contain such entity’s plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses. All providers shall update plans filed with the commission annually. For purposes of Acts 1995, ch. 408, “minority business” means a business which is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin and such business has annual gross receipts of less than four million dollars ($4,000,000). For purposes of Acts 1995, ch. 408, “small business” means a business with annual gross receipts of less than four million dollars ($4,000,000).

65-5-113. Assistance program for small and minority-owned businesses.

(a) The department of the treasury shall develop by rule an assistance program for small and minority-owned businesses, as defined in § 65-5-112, which may include loans and loan guarantees, technical assistance and
services, and consulting and educational services to be funded solely from the fund established in subsection (b). The department shall administer the small and minority-owned business assistance program. It is the legislative intent that such program be designed with consideration of fair distribution of program assistance among the geographic areas of the state, the grand divisions, and small and minority-owned businesses. It is the legislative intent that the department use the assistance provided by this program to support the department’s outreach to new, expanding, and existing businesses in Tennessee that do not have reasonable access to capital markets and traditional commercial lending facilities.

(b) There is established a general fund reserve to be allocated in accordance with the small and minority-owned business assistance program by this section which shall be known as the small and minority-owned business assistance program fund. Moneys from the fund may be expended in accordance with such program. Any moneys deposited in the fund shall remain in the reserve until expended for purposes consistent with such program and shall not revert to the general fund on any June 30. Any interest earned by deposits in the reserve shall not revert to the general fund on any June 30 but shall remain available for expenditure in subsequent fiscal years.

(c) It is within the state treasurer’s discretion to accept new applications to participate in the small and minority-owned business assistance program after July 1, 2013. After July 1, 2013, the program shall administer all loans that are outstanding as of July 1, 2013, until the loans are matured or written-off. After July 1, 2013, and notwithstanding subsection (b), a portion of the small and minority-owned business program funds shall be transferred to the board of trustees of the college savings trust fund program to be utilized in an incentive plan or plans authorized in § 49-7-805(4), reserving such amounts that the state treasurer deems necessary for the administration of the small and minority-owned business program, as well as the administration and marketing of the incentive plan or plans. At least annually, the state treasurer shall evaluate the loan payments received by the small and minority-owned business assistance program and shall have the authority to transfer the funds from loan payments to the college savings trust fund program while reserving amounts for continued administration of the small and minority-owned business assistance program.

65-5-202. Part definitions — Treatment of telecommunications services to avoid federal law prohibited — Jurisdiction of regulatory commission maintained — Regulation of cable television not affected.

(a)(1) As used in this part, “broadband services” means any service that consists of or includes a high-speed access capability to transmit at a rate that is not less than two hundred kilobits per second (200 Kbps), either in the upstream or downstream direction and either:

(A) Is used to provide access to the Internet; or

(B) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over the high-speed access service.

(2) “Broadband services” does not include intrastate service that was tariffed with the Tennessee public utility commission and in effect as of May
15, 2006; furthermore, the intrastate service shall not be reclassified, bundled, detariffed, declared obsolete or otherwise recharacterized to avoid the imposition of inspection fees by the Tennessee public utility commission.

(b) Nothing in this part shall permit any carrier to treat services that constitute telecommunications services under federal law as nontelecommunications services for any purpose under state law.

(c) Nothing in this part shall alter or affect the jurisdiction of the Tennessee public utility commission to arbitrate or hear complaints related to anticompetitive pricing of regulated services or interconnection agreements between carriers pursuant to §§ 251 and 252 of the federal Telecommunications Act (47 U.S.C. §§ 251 and 252).

(d) Nothing in this part shall alter or affect any jurisdiction or authority of the Tennessee public utility commission to act in accordance with federal laws or regulations of the federal communications commission, including, but not limited to, jurisdiction granted to set rates, terms, and conditions for access to unbundled network elements and to arbitrate and enforce interconnection agreements.

(e) Nothing in this part shall alter or affect in any manner the regulation of cable television as established elsewhere in state law.

65-5-203. Federal preemption.

In order to ensure that this state provides an attractive environment for investment in broadband technology by establishing certainty regarding the regulatory treatment of that technology, consistent with the decisions of the federal communications commission to preempt certain state actions that are not in accordance with the policies developed by the federal communications commission, the Tennessee public utility commission shall not exercise jurisdiction of any type over or relating to broadband services, regardless of the entity providing the service, except as provided in § 65-5-202(a).

65-5-302. Part definitions—Required parity for interstate and intrastate access rates and rate structures.

(a) For the purposes of this part:

(1) “Entity” means an entity that provides switched access service and is a public utility as defined in § 65-4-101 or a telephone cooperative governed by chapter 29 of this title;

(2) “Interstate switched access charges” means charges for switched access services for interstate toll telecommunications services;

(3) “Intrastate switched access charges” means charges for switched access services for intrastate toll telecommunications services; and

(4) “Switched access services” means the utilization of switching and related facilities for the origination or termination of toll telecommunications services of other service providers.

(b) Notwithstanding any law to the contrary and consistent with this part, any entity that provides switched access service shall be prohibited from imposing intrastate switched access charges that exceed the interstate switched access charges imposed by the entity, and shall utilize the same rate structure for the provision of intrastate switched access service that the entity uses for the provision of interstate switched access service; provided, however, that:
(1) Until such time as rules governing the funding of the Tennessee relay service have been promulgated and have taken effect pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and § 65-21-115, an entity may include in its intrastate switched access charges as a separate intrastate switched access rate element an additur established by the Tennessee public utility commission for the purpose of maintaining the Tennessee relay service consistent with § 65-21-115, such amount not to exceed the additur established as of April 12, 2011;

(2) Any entity that, as of April 12, 2011, is imposing intrastate switched access charges that, on an average per minute basis, are higher than the average per minute interstate switched access charges imposed by the entity, shall, no later than April 1, 2012:
   (A) Establish an intrastate switched access rate structure that is the same as its interstate switched access rate structure; and
   (B) Implement revised intrastate switched access charges to effectuate a reduction of at least twenty percent (20%) in the difference between the average per minute intrastate switched access rate in effect for the entity on April 12, 2011, and the average per minute interstate switched access rate in effect for the entity on April 12, 2011;

(3) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2013, implement revised intrastate switched access charges to effectuate a reduction of at least forty percent (40%) in the difference between the average per minute intrastate switched access rate in effect for the entity on April 12, 2011, and the average per minute interstate switched access rate in effect for the entity on April 12, 2011;

(4) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2014, implement revised intrastate switched access charges to effectuate a reduction of at least sixty percent (60%) in the difference between the average per minute intrastate switched access rate in effect for the entity on April 12, 2011, and the average per minute interstate switched access rate in effect for the entity on April 12, 2011;

(5) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2015, implement revised intrastate switched access charges to effectuate a reduction of at least eighty percent (80%) in the difference between the average per minute intrastate switched access rate in effect for the entity on April 12, 2011, and the average per minute interstate switched access rate in effect for the entity on April 12, 2011; and

(6) Any entity effectuating a reduction in its intrastate switched access rates pursuant to subdivision (b)(2) shall, on or before April 1, 2016, implement revised intrastate switched access charges that do not exceed the interstate switched access charges imposed by the entity.

(c) An entity that implements an increase in an intrastate switched access rate element between February 1, 2011, and April 1, 2012, and that is transitioning its intrastate access rates as provided in subdivisions (b)(2)-(6), shall reduce such intrastate switched access rate element to the rate in effect on January 31, 2011, no later than April 1, 2012, and shall effectuate the reductions required by subdivisions (b)(2)-(6) using the average per minute intrastate switched access rate in effect for the entity on January 31, 2011, instead of the average per minute intrastate switched access rate in effect for
the entity on April 12, 2011.

(d) A competing telecommunications service provider, as defined in § 65-4-
101, may provide by tariff that its intrastate switched access charges are the
same as those of the incumbent local exchange telephone company, as defined
in § 65-4-101, for whose service area the competing telecommunications
service provider is offering intrastate switched access service, and be deemed
thereby to comply with subsections (b) and (f), and the requirement in
subsection (g) to set forth intrastate switched access rates and a rate structure
in a tariff or price list.

(e) Notwithstanding any law of this state or requirements of the Tennessee
public utility commission to the contrary, an entity that transitions its
intrastate access rates as provided in subdivisions (b)(2)-(6), shall be entitled,
but not required, to adjust its retail rates each year to recover any revenue
losses resulting from its revision of intrastate switched access rates and rate
structure. The Tennessee public utility commission may not review or regulate
such retail rate adjustments.

(f) To the extent the interstate switched access rates or rate structure of an
entity change consistent with applicable federal law, then the entity shall have
thirty (30) days to implement the same changes for its provision of intrastate
switched access services. Notwithstanding the implementation of any change
authorized by this subsection (f), to the extent that an entity is implementing
revisions to its intrastate switched access rates in accordance with subdivi-
sions (b)(2)-(6), the entity shall continue to revise its rates in accordance with
subdivisions (b)(2)-(6) and, on or before April 1, 2016, and thereafter, such
entity shall have the same rates and rate structures for the provision of both
intrastate and interstate switched access services.

(g) No later than April 1, 2012, any entity that is providing switched access
service shall file and thereafter maintain a tariff or price list with the
Tennessee public utility commission setting forth its intrastate switched access
rates and rate structure.


(a) The department of safety is vested with the power and authority, and it
is its duty, to license, supervise and regulate every motor carrier in the state
and promulgate rules and regulations pertaining thereto.

(b)(1) The department of safety shall designate enforcement officers charged
with the duty of policing and enforcing this part, and such enforcement
officers have authority to make arrests for violation of this part, orders,
decisions, rules and regulations of the department of safety, or any part or
portion thereof, and to serve any notice, order or subpoena issued by any
court, the department of safety, its commissioner or any employee autho-
ized to issue same, and to this end shall have full authority throughout the
state.

(2) Such enforcement officers while enforcing and policing the provisions
of this part also have authority to make arrests for any violations of the
Tennessee Drug Control Act of 1989, compiled in title 39, chapter 17, part 4,
and for violations of title 55, chapter 10, part 4, and § 55-50-408, when such
violations are committed by a driver or an occupant of a vehicle regulated
under this part.

(3) Such enforcement officers, upon reasonable belief that any motor
vehicle is being operated in violation of this part, shall be authorized to
require the driver thereof to:

(A) Stop and exhibit the registration certificate issued for such vehicle;

(B) Submit to such enforcement officer for inspection any and all bills of lading, waybills, invoices or other evidences of the character of the lading being transported in such vehicle; and

(C) Permit such officer to inspect the contents of such vehicle for the purpose of comparing same with bills of lading, waybills, invoices or other evidence of ownership or of transportation for compensation.

(4) It is the further duty of such enforcement officers to impound any books, papers, bills of lading, waybills and invoices which would indicate the transportation service being performed is in violation of this part, subject to the further orders of the court having jurisdiction over the alleged violation.

(5) Such enforcement officers shall also have the above authority with respect to anyone who procures, aids or abets any motor carrier in violation of this part or in such carrier’s failure to obey, observe or comply with this part, or any such order, decision, rule, regulation, direction or requirement of the department of safety, or any part or portion thereof.

(6) In a case in which a penalty is not otherwise provided for in this part, such person commits a Class B misdemeanor and, upon conviction, shall be punished as provided for in § 65-15-113.

(c)(1) It is lawful for enforcement officers of the department of safety, regularly employed by the department of safety, acting through its director, to wear or carry pistols or other firearms at such times as they are in uniform or on active duty, in like manner as city or metropolitan police officers, wildlife resources agency officers and Tennessee highway patrol officers.

(2) Department of safety enforcement officers may charge any person who is a driver, operator or occupant of a vehicle subject to department of safety jurisdiction pursuant to this chapter, and who has been charged with an offense involving the consumption or possession of alcoholic beverages, controlled substances or controlled substance analogues with a violation of § 39-17-1307, for the unlawful carrying or possession of a weapon. Any weapon possessed in violation of § 39-17-1307, may be confiscated by the arresting officer in accordance with § 39-17-1317. Weapons confiscated pursuant to this subsection (c), and declared contraband by the court of record exercising criminal jurisdiction, may be disposed of upon petition of the department of safety by the same procedure provided for weapon confiscations of the department of safety in § 39-17-1317.

(3) Those enforcement officers authorized to carry firearms while on duty may retain after twenty-five (25) years of honorable service and upon retirement from the department of safety their service weapon in recognition of their many years of good and faithful service.

(d) Except as inconsistent with the express terms and provisions of this part, the Tennessee public utility commission has the same power as to and over rates, practices, regulation, control and operation of motor vehicles, to which this part is applicable, as the department of safety now has under present law, with reference to railroads and utilities; provided, that nothing in this subsection (d) is intended to impose regulations upon contract carriers except insofar as the nature and character of their business so justify under the constitutions of Tennessee and the United States and the valid laws made pursuant thereto.

(e) The department is authorized to apply for federal funds that may be
available and to conduct any new entrant audits and review and compliance inspections that may be required by regulations promulgated by the United States department of transportation.


As used in this chapter:

1) “Construct” or “construction”:
   (A) Means the process of bringing a wind energy facility to completion; and
   (B) Includes the following:
      (i) Planning;
      (ii) Research, but does not include wind and environmental analysis;
      (iii) Feasibility analysis, but does not include wind and environmental analysis;
      (iv) Environmental evaluation, but does not include wind and environmental analysis;
      (v) Preliminary engineering;
      (vi) Designing;
      (vii) Relocation of utilities;
      (viii) Permitting;
      (ix) Environmental mitigation;
      (x) Contracting; and
      (xi) Financing;

2) “Local government” means any county, municipality, city, or other political subdivision of this state;

3) “Operate” or “operation”:
   (A) Means any activity associated with the management, operation, and maintenance of a completed wind energy facility; and
   (B) Includes the installation or improvement of the wind energy facility;

4) “Person” means any natural person, corporation, limited liability company, partnership, joint venture, or other private business entity except for corporations transacting business in this state pursuant to chapter 25 of this title;

5) “Redevelop” or “redevelopment” means the process of replanning, reconstructing, or redesigning a wind energy facility, including the acquisition, clearance, development, or disposal, or any combination of these activities, of a wind energy facility;

6) “Transmission facility” means a power cable, distribution line, or other equipment that delivers electricity from a wind turbine located in this state to the point of interconnection with a power distribution grid, long-distance power transmission grid, or other facility by and through which the electricity is distributed or transmitted to one (1) or more customers; provided, that nothing in this chapter shall apply to any distribution, transmission, or other facilities that are located beyond the point of interconnection with the power distribution grid or transmission grid;

7) “Wind energy facility”:
   (A) Means the equipment necessary for the operation of a facility that uses wind to generate electricity or that uses wind energy to heat or cool, or provide hot water for use in, a building or structure, including parts solely related to the functioning of that equipment, that cumulatively, with any other wind energy facility, has a rated capacity of one megawatt (1
MW) or more of energy;

(B) Includes turbines, towers, buildings, transmission facilities, and other associated facilities; and

(C) Does not include equipment that, when installed in connection with a dwelling, transmits or uses wind energy to produce energy in a useful form for residential purposes; and

(8) “Wind energy facility expansion” means any activity that:

(A) Adds or substantially modifies a wind energy facility, including increasing the height or the number of the turbines, transmission facilities, or other equipment; or

(B) Increases the footprint of the wind energy facility.

65-17-102. Applicability.

This chapter shall not apply in any local government that has adopted regulations related to the siting of wind energy facilities in its jurisdiction on or before July 1, 2017.

65-17-103. Limitation period on expansion of wind energy facilities.

From May 11, 2017, until July 1, 2018, no person shall construct, operate, or redevelop a wind energy facility, or initiate a wind energy facility expansion in this state.

65-21-114. Toll-free telephone service within counties.

(a) Any telephone call made between two (2) points in the same county in Tennessee shall be classified as toll-free and shall not be billed to any customer.

(b) This section shall apply to all companies or entities providing telephone service in this state as public utilities, including, but not limited to, telephone companies regulated by the Tennessee public utility commission. However, this section does not apply to any telephone company which is prohibited by federal law from providing countywide service in a particular county.

(c) Nothing in this section is intended to modify or repeal the rate-making and telephone regulatory authority of the commission or the right of telephone companies to earn a fair rate of return.

65-21-115. Funding for the Tennessee relay services/telecommunications devices access program — Legislative intent — Operation.

(a) Funding for the Tennessee relay services/telecommunications devices access program (TRS/TDAP) programs shall be provided by the state emergency communications board. Such funding shall not exceed the total cost of the TRS/TDAP program in 2012 unless approved by the fiscal review committee.

(b) The Tennessee public utility commission may create a reserve for the TRS/TDAP program which shall not exceed one million dollars ($1,000,000) in any given year.

(c) It is the legislative intent that the TRS/TDAP program be designed with consideration of fair distribution of equipment that is technologically available and economically feasible to be provided to assist individuals with any disability using the basic telephone network.

(d) The administrative cost of the Tennessee public utility commission to
implement this section shall come from the funding described in subsection (a).

(e) The Tennessee public utility commission is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement this section.


As used in this chapter, unless the context otherwise requires:

(1) “Area coverage” means that a service will be available to patrons in accordance with a financially feasible plan without regard to how thickly or sparsely patrons’ premises may be located in a cooperative’s areas of service;

(2) “Board” means a cooperative’s board of directors or the necessary number thereof to take action;

(3) “Community utility services” includes broadband internet access and related services and telecommunications services, including, but not limited to, television communication services of any kind and by any means, television programming and decryption services, selling, leasing, both as lessor and lessee, servicing and repairing related equipment, including TV antenna dishes, and the furnishing for any purpose to itself or to others, including other cooperatives, information and data relative to its or their other purposes, including, if such is the case, the primary purpose. Nothing in this subdivision (3) permits a cooperative to provide cable service, as defined in § 7-59-303, or video service, as defined in § 7-59-303, without complying with the requirement to obtain a franchise as set forth in the Competitive Cable and Video Services Act, compiled in title 7, chapter 59, part 3;

(4) “Cooperative” or “cooperatives” means one (1) or more nonprofit cooperative membership corporations heretofore or hereafter organized under or otherwise subject to this chapter, including corporations transacting business in this state pursuant to § 65-25-121 under this chapter or under its predecessor, the Electric Cooperative Law, hereinafter called “foreign corporations”;

(5) “Lease-sale” means an agreement whereby the possession and use of assets and properties would be transferred to a lessee-purchaser for a stated or determinable term in time, during or at the end of which such lessee-purchaser would have the right and be obligated, or would have the option, to purchase and acquire, or would without further act acquire, fee simple title to such assets and properties for a price expressly stated in the agreement or for a price determinable by a formula contained in the agreement, whether or not any portion of any lease-hold or rental payments would be creditable as a part of such price;

(6) “Member” means a person having the right to vote for the directors of a cooperative and upon other matters as provided in this chapter, a cooperative’s articles of incorporation or bylaws, and includes each incorporator of a cooperative thereof, and also a husband and wife admitted to joint membership;

(7) “Net worth” means the difference between a cooperative’s assets and liabilities, which liabilities shall not include any amounts of patronage capital assigned or assignable to patrons on the cooperative’s books or carried on such books even though not so assigned or assignable, determined in accordance with generally accepted accounting principles and methods
and the accounting system applicable to such cooperative, as most recently, but not more than sixty (60) days, reflected in its books of account and balance sheet prior to the date of a member meeting at which a vote will be taken on whether to sell or to lease-sell all or a substantial portion of the assets and properties which are devoted to and are used or useful in pursuing a primary purpose;

(8) “Patron” means a person agreeing to receive or already receiving or who in the past has received one (1) or more of the services rendered by a cooperative, whether such person is a member thereof or not, and “nonmember patron” means such a person who or which is not or was not a member;

(9) “Person” includes any natural person, firm, association, corporation, cooperative, business trust, partnership and federal, state or local governments, or departments, agencies or any other political subdivision thereof;

(10) “Primary purpose” means one (1) of the purposes provided for in § 65-25-104(a)(1), and a “secondary purpose” means one (1) of the purposes provided for in § 65-25-104(a)(2);

(11) “Service” or “services” includes sales, exchanges, rentals, repairs and maintenance of land, facilities, equipment, machinery, appliances, accessories and goods and the financing of their acquisition by patrons;

(12) “Substantial portion” means ten percent (10%) or more of the value in dollars of a cooperative’s assets and properties as appropriately stated in its books of account; and

(13) “Telecommunications” does not include the furnishing of telephone service, either local or long distance, leased lines or equipment for the vocal or written transmission of messages, or any related services for which a charge is made.


(a) A cooperative shall have one (1) or more of the:

(1) Primary purposes of:

   (A) Supplying or furnishing at wholesale or retail, electric power and energy services to, and promoting the efficient use and conservation thereof by, one (1) or more patrons; or
   (B) Supplying, furnishing or exchanging wholesale power and energy to or with any other entity; and/or

(2) Secondary purposes of:

   (A) Supplying or furnishing other community utility services as provided in §§ 65-25-102(3) and 65-25-131;
   (B) Providing management or operating services by contract with any cooperative, utility district, municipality, or other entity engaged in the provision of community services or of services including, but not limited to, water, sewer, and natural gas; and
   (C) Promoting economic and industrial development through participation, including either as a borrower or as a lender, in any economic or industrial development program established by any agency of the United States or of the state of Tennessee.

(b) A cooperative existing prior to, or coming into existence on or after, April 7, 1988, may, without further action other than the adoption by its board of a resolution to that effect, have, and may engage in business for, one (1) or more of the secondary purposes, and may, subject to any approvals by its members
that may otherwise be required by this chapter, after engaging in such business abandon the same by the adoption by its board of a resolution to that effect.

(c) A cooperative having the primary purpose may be the only incorporator and member or one (1) of the incorporators and members of another cooperative having a primary purpose and/or a secondary purpose; and a cooperative not having a primary purpose may be the only incorporator and member or one (1) of the incorporators and members of another cooperative having a secondary purpose only.

(d) Notwithstanding any other provision of this chapter, a cooperative having a primary purpose shall not, in pursuance of one (1) or more secondary purposes, burden, obstruct, prevent, interfere with, jeopardize, impair, delay, or lower the quality, reliability or adequacy, or increase the cost of, the pursuance and achievement of a primary purpose. Without limiting the generality of the foregoing sentence, in the business and affairs of the cooperative, including its ownership of and titles to, or its interests as mortgagor or mortgagee or as lessor or lessee in, any property of any kind or estate whatever, real or personal:

(1) Its conduct of business in pursuance of a primary purpose and of each of its secondary purposes shall be separately accounted for, so that the costs, expenses, expenditures, assets, properties, liabilities, obligations, revenues, receipts, capital indebtedness, equity, book value, net worth and other information necessary to reveal the operations and financial and other conditions of its business for each may be accurately ascertained; and its books and records shall be so set up and kept that, at any reasonable time after normal periods of business accounting and reporting and after a reasonable time following the end of each fiscal year, such ascertainment, including the determination of the pro rata amounts of patronage or the amounts of equity, if any, of the patrons in respect of its business for each such purpose, may be made; and

(2) It will not so operate as to permit its income from business transacted for one (1) or more secondary purposes to be such, in amount or as a percentage of its total income, as to prevent it from being able to obtain or to cause it to lose exemption from federal income taxation relative to a primary purpose.


(a) Not inconsistent with or in lieu of, but in addition to, the powers set forth in title 48, chapter 53, a cooperative has the power to:

(1) Have a corporate seal and alter the same at will; provided, that it need not have, nor shall it for any purpose be necessary for it to use, such a seal;

(2) Become a member in or stockholder of one (1) or more other nonprofit cooperatives, corporations or other legal entities and to own the same, wholly or in part;

(3) Solely on its own, or jointly, as tenant in common or as a partner with one (1) or more other entities, construct, purchase, take, receive, lease as lessee or lessor, or otherwise acquire, and own, hold, use, equip, maintain, and operate and sell, assign, transfer, convey, exchange, lease back, mortgage, pledge, or otherwise dispose of or encumber any and all property, of whatever kind or nature and of whatever estate, real and personal, tangible
and intangible, including choses in action;

(4) Purchase or otherwise acquire, and own, lease as lessor or lessee, lease back, hold, use, and exercise, and sell, assign, transfer, convey, mortgage, pledge, hypothecate, or otherwise dispose of or encumber, franchises, rights, privileges, licenses, rights-of-way, and easements;

(5) Secure any of its liabilities or obligations by mortgage, pledge, deed of trust, or any other encumbrance upon any or all of its then-owned or after-acquired real or personal property, assets, franchises, revenues, or income;

(6) Make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, but not limited to, contracts with any person, federal agency, or municipality, for the purchase or sale of electric power and energy and, in connection with any such electric power and energy contract, stipulate and agree to such covenants, terms, and conditions as the board may deem appropriate, including covenants, terms, and conditions with respect to resale rates, financial and accounting methods, services, operation and maintenance practices, and, consistent with § 65-25-112, the manner of disposing of the revenues of the properties operated and maintained by the cooperative;

(7) Conduct its business and exercise any or all of its powers within or without this state;

(8) Adopt, amend, and repeal bylaws;

(9) Organize and promote and otherwise foster and participate in, through membership or ownership, including stock ownership, community, regional, or statewide or national organizations whose purposes are or include the promotion and assistance of economic, industrial or commercial development which the board of the cooperative determines will, or likely will, result in economic benefits to the cooperative or its members;

(10) Do and perform any and all other acts and things and have and exercise any and all other powers which may be necessary, convenient, or appropriate to accomplish the cooperative’s purpose or purposes;

(11) With respect to a primary purpose and the secondary purpose of supplying telecommunications services, but without limiting the generality or particularity of subdivisions (a)(1)-(10), construct, maintain, and operate electric and/or other telecommunication transmission and distribution lines or other conducting or communications facilities along, upon, under, and across all public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways, and upon, under, and across all publicly owned lands; provided, that the respective authorities having jurisdiction thereover shall consent thereto; provided, however, that such consent shall not be unreasonably withheld or conditioned or withheld or conditioned for the purpose of enabling such an authority to gain competitive advantage with respect to the rendition by itself or any other entity of a service which the cooperative also has a right to render; and

(12) With respect to a primary purpose, but without limiting the generality or particularity of subdivisions (a)(1)-(11):

(A) Generate, manufacture, purchase, acquire, and transmit, and transform, supply, distribute, furnish, deliver, sell, and dispose of, electric power and energy;

(B) Make loans to persons to whom electric power or energy is or will be supplied by the cooperative for the purpose of, and otherwise to assist such
persons in, wiring their premises and installing therein electric and plumbing fixtures, appliances, apparatus, and equipment of any and all kinds and character, and, in connection therewith, purchase, acquire, lease, sell, distribute, install, and repair such electric and plumbing fixtures, appliances, apparatus, and equipment, and accept, or otherwise acquire, and sell, assign, transfer, endorse, pledge, hypothecate and otherwise dispose of, notes, bonds and other evidences of indebtedness and any and all types of security therefor; and

(C) Condemn either the fee or such other right, title, interest or easement in and to property as the board may deem necessary, and such property or interest in such property may be so acquired, whether or not the same is owned or held for public use by corporations, associations, cooperatives or persons having the power of eminent domain, or otherwise held or used for public purposes, and such power of condemnation may be exercised in the mode of procedure prescribed by title 29, chapter 16, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain; provided, that no property which is owned or held for public use, nor any interest therein, shall be condemned if, in the judgment of the court the condemnation of such property or interest therein will obstruct, prevent, burden, interfere with, or unduly inconvenience the continued use of such property for the public use to which it is devoted at the time the same is sought to be condemned; provided further, that where title to any property sought to be condemned is defective, it shall be passed by decree of court; provided further, that where condemnation proceedings become necessary, the court in which such proceedings are filed shall, upon application by the cooperative and upon the posting of a bond with the clerk of the court in such amount as the court may deem commensurate with the value of the property, order that the right of possession shall issue immediately or as soon and upon such terms as the court, in its discretion, may deem proper and just; but provided further, that in cases where condemnation of property already devoted to a public use is sought, no order as to right of possession shall issue until it is finally determined that the condemnor is entitled to condemn such property. The power of eminent domain provided by this subdivision (a)(12)(C) shall be supplemental to, not in lieu of or in conflict with, § 48-51-103 of the Tennessee Nonprofit Corporation Act.

(b) All of the powers conferred by this section are to be exercised by a cooperative for rendering one (1) or more services to persons who or which are its members and to other persons, not to exceed fifteen percent (15%) of the number of persons who or which are its members; provided, that whenever in the sole judgment of its board such is necessary to acquire or to protect and preserve a cooperative's exemption from federal income taxation relative to a primary or secondary purpose, a cooperative may require new nonmember patron applicants or existing nonmember patrons to become members as a condition of initially receiving or of continuing to receive such service.

(c) [Deleted by 2017 amendment.]

(d) (1) In addition to all other powers set forth in this chapter, a cooperative shall have the power and authority to make contributions for bona fide charitable purposes and to accept voluntary contributions pursuant to programs approved by the board of directors, which programs may include,
but shall not be limited to, programs in which bills for electric power are rounded up to the next dollar when such contribution is shown as a separate line on the electric bill.

(2) Contributions accepted by a cooperative pursuant to programs authorized by subdivision (d)(1) shall not be considered revenue to the cooperative and shall be used only for charitable purposes.

(3) This subsection (d) prohibits discrimination by a cooperative in the distribution of voluntary contributions for bona fide charitable purposes to organizations whose mission is to assist persons regardless of their race, color, creed, religion, national origin, gender, disability or age.

65-25-123. Exemption from jurisdiction of Tennessee public utility commission.

Cooperatives and foreign corporations transacting business in this state pursuant to this chapter shall be deemed to be not-for-profit cooperatives and nonutilities, and, except as provided in § 65-25-122, exempt in all respects from the jurisdiction and control of the Tennessee public utility commission.

65-25-127. [Repealed.]

65-25-130. Subsidies by electric cooperatives to cable joint ventures — Antitrust provisions — Remedies.

(a) An electric cooperative may not provide subsidies to a cable joint venture. Notwithstanding that limitation, an electric cooperative participating in a cable joint venture may:

(1) Dedicate a reasonable portion of the electric plant to the provision of such service, the costs of which shall be allocated to such services by agreement of the parties to the joint venture; and

(2) Lend funds, at a rate of interest not less than the highest rate then earned by the electric cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any such services; provided, that such interest costs shall be allocated to the cost of such service for regulatory purposes, and further provided that no financing for a cable joint venture shall come from loans from the rural utility service of the United States department of agriculture unless and until such loans are specifically authorized by federal statute.

(b) To the extent that an electric cooperative offers services through a cable joint venture, such cooperative shall have all the powers, obligations, and authority granted other entities providing such services under the applicable laws of the United States, the state of Tennessee, or local governments; provided, that the franchise under which the joint venture shall operate shall in no way be considered an overlapping franchise nor in any way modify or amend § 7-59-203.

(c) Nothing in this chapter shall be construed to alter or amend the process or procedure for renewal of franchises.

(d) It is unlawful during the negotiation of the joint venture or thereafter for any party to a cable joint venture or the local franchising authority, as defined in title 7, chapter 59, to use unfair or anti-competitive practices under any applicable state or federal law. Such practices shall include, but are not limited
to, predatory pricing, collusion, and price tying.

(e) The parties to a cable joint venture or the local franchising authority, as defined in title 7, chapter 59, may bring a civil action for injunctive or declaratory relief in chancery court to enforce subsection (d). Venue for such action may be in any county where the unfair or anti-competitive practice is alleged to have occurred or to be threatened.

(f) If the cable joint venture or any member of the cable joint venture providing such service is exempt from paying federal, state, or local taxes, then, for regulatory purposes, the cable joint venture shall allocate to the costs of such services an amount equal to a reasonable determination of the state, local and federal taxes which would be required to be paid if the cable joint venture were not exempt and each of its members were not exempt from paying such taxes.


(a)(1) Each cooperative may, within its service area and with the authorization of its board, contract to establish a telecommunications joint venture with any entity for the provision of telephone, telegraph, or telecommunications services in compliance with chapters 4 and 5 of this title, and all other applicable state and federal laws, rules and regulations. Notwithstanding § 65-4-101(6)(B) or any other provision of this code or of any private act, a telecommunication joint venture and every member of a telecommunication joint venture shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other certified providers of telecommunications services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the provision of telephone, telegraph and telecommunication services.

(2) Neither an electric cooperative nor any other entity participating in a telecommunications joint venture that provides such services may provide subsidies for such services. Notwithstanding the limitations set forth in the preceding sentence, an electric cooperative participating in a telecommunications joint venture may:

(A) Dedicate a reasonable portion of the electric plant to the provision of such services, the costs of which shall be allocated to such services for regulatory purposes; and

(B) Lend funds, at a rate of interest not less than the highest rate then earned by the electric cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equipment necessary to provide any such services; provided, that such interest costs shall be allocated to the cost of such services for regulatory purposes.

(3) To the extent that it provides such services, a telecommunications joint venture has all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or this state. To the extent that such authority and powers do not
conflict with chapter 4 or 5 of this title, and any rules, regulations, or orders
issued thereunder, a telecommunications joint venture providing any such
services shall have all the authority and powers with respect to such services
as are enumerated in this chapter.

(4) If the telecommunications joint venture or any member of the tele-
communications joint venture providing such service is exempt from paying
federal, state, or local taxes, then for regulatory purposes, the telecommu-
nications joint venture shall allocate to the costs of such services an amount
equal to a reasonable determination of the state, local and federal taxes
which would be required to be paid if the telecommunications joint venture
and each of its members were not exempt from paying such taxes.

(5) This subsection (a) is not applicable to areas served by an incumbent
local exchange telephone company or telephone cooperative with fewer than
one hundred thousand (100,000) total access lines in this state unless such
company voluntarily enters into an interconnection agreement with a
competing telecommunications service provider or unless such incumbent
local exchange telephone company applies for a certificate to provide
telecommunications services in an area outside its service area existing on
June 6, 1995, or § 65-4-201(d), is declared unconstitutional or unlawful by a
court of competent jurisdiction in a final non-appealable order.

(b) Each cooperative may, within its service area and with the authorization
of its board, contract to establish a joint venture with any entity to provide the
transmission, transportation, distribution, delivery, or sale of natural gas, or
similar products; provided, that the entity with which the joint venture is
established shall be engaged in such business at the time the contract to
establish the joint venture is effective.

65-25-134. Telecommunications services.

(a)(1) Notwithstanding § 7-59-316, every cooperative has the power and is
authorized, acting through its board of directors, to acquire, construct, own,
improve, operate, lease, maintain, sell, mortgage, pledge, or otherwise
dispose of any system, plant or equipment for the provision of telephone,
telegraph, voice over internet protocol, telecommunications services, or any
other like system, plant, or equipment within or without the service area of
the cooperative in compliance with chapters 4 and 5 of this title and all other
applicable state and federal laws, rules, and regulations. Notwithstanding
§ 65-4-101(6)(A)(vi) or any other provision of this code or of any private act
to the contrary, to the extent that any cooperative provides any of the
services authorized by this subdivision (a)(1), the cooperative shall be
subject to regulation by the Tennessee public utility commission in the same
manner and to the same extent as other certificated providers of the services
authorized by this subsection (a), including, without limitation, rules or
orders governing anti-competitive practices, and shall be considered as and
have the duties of a public utility, as defined in § 65-4-101, but only to the
extent necessary to effect such regulation and only with respect to the
cooperative’s provision of the services authorized by this subdivision (a)(1).

(2) Every cooperative has the power and is authorized, acting through its
board of directors, to acquire, construct, own, improve, operate, lease,
maintain, sell, mortgage, pledge, or otherwise dispose of any system, plant or
equipment for the provision of broadband internet access, internet protocol-
based video, video programming, or related or similar services, or any other like system, plant, or equipment within the service area of the cooperative in compliance with chapters 4 and 5 of this title and all other applicable state and federal laws, rules, and regulations, including, but not limited to, the requirement to obtain a franchise as set forth in § 7-59-304. Notwithstanding § 65-4-101(6)(a)(vi) or any other provision of this code or of any private act to the contrary, to the extent that any cooperative provides any of the services authorized by this subdivision (a)(2), the cooperative shall furnish the services on an area coverage basis, as defined in § 65-25-102, and shall be subject to regulation by the Tennessee public utility commission in the same manner and to the same extent as other providers of broadband internet access, internet protocol-based video, video programming, or related or similar services, including, without limitation, rules or orders governing anti-competitive practices, and shall be considered as and have the duties of a public utility, as defined in § 65-4-101, but only to the extent necessary to effect such regulation and only with respect to the cooperative’s provision of the services authorized by this subdivision (a)(2). In the event that a cooperative acquires, merges with, or consolidates with another entity that provides any one (1) of the services authorized by this subdivision (a)(2) in a geographic location concurrent with or adjacent to the electric service area of the cooperative, then, subsequent to such transaction, nothing in this section prohibits the electric cooperative from providing the services authorized by this subdivision (a)(2) in the geographic service territory in which the acquired or merged entity was authorized to provide such services prior to the merger, acquisition, or consolidation.

(b)(1) A cooperative providing any of the services authorized by subsection (a) shall not provide subsidies for such services and shall administer, operate, and maintain the electric system separately in all respects, including establishing and maintaining a separate fund for the revenues from electric operations, and shall not directly or indirectly mingle electric system funds or accounts, or otherwise consolidate or combine the financing of the electric system, with those of any other of its operations.

(2) A cooperative providing any of the services authorized by subdivision (a)(2) shall administer and operate such services as a separate subsidiary.

(3) Notwithstanding the limitations set out in this subsection (b), a cooperative providing the services authorized by subsection (a) is authorized to:

(A) Dedicate a reasonable portion of the electric plant to the provision of such services, the costs of which shall be allocated to such services in the separate accounting required under this subsection (b); and

(B) Lend funds, at a rate of interest not less than the highest rate then earned by the cooperative on invested electric plant funds, to acquire, construct, and provide working capital for the system, plant, and equip-
ment necessary to provide any of the services authorized under subsection (a); provided, that such interest costs shall be allocated to the cost of such services in the separate accounting required under this subsection (b).

(e)(1) To the extent that it provides any of the services authorized by subsection (a), a cooperative has all the powers, obligations and authority granted entities providing telecommunications services under applicable laws of the United States or this state. To the extent that such authority and powers do not conflict with title 65, chapter 4 or 5, and any rules, regulations, or orders issued thereunder, a cooperative providing any of the services authorized by subsection (a) has all the authority and powers with respect to such services as are enumerated in this chapter.

(2) Notwithstanding the authorization granted in subsection (a), a cooperative shall not provide any of the services authorized by subsection (a) unrelated to its electric services within the service area of an existing telephone cooperative with fewer than one hundred thousand (100,000) total lines organized and operating under chapter 29 of this title, and therefore shall adhere to those regulations of the 1995 Tennessee Telecommunications Act and rules of the Tennessee public utility commission, which are applicable to the telephone cooperatives, and specifically §§ 65-4-101 and 65-29-130.

(d) For regulatory purposes, a cooperative shall allocate to the costs of providing any of the services authorized by subsection (a):

(1) An amount for attachments to poles owned by the cooperative equal to the highest rate charged by the cooperative to any other person or entity for comparable pole attachments; and

(2) Any applicable rights-of-way fees, rentals, charges, or payments required by state or local law of a non-governmental corporation that provides the identical services.

(e)(1) Nothing in this chapter shall be construed to allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3.

(2) Nothing in this chapter shall allow a cooperative to provide any service for which a license, certification, or registration is required under title 62, chapter 32, part 3, or to provide pager service.

(f) This chapter supersedes any conflicting law.

(g) It is unlawful for a cooperative to use unfair or anticompetitive practices prohibited by applicable state or federal law. Such practices shall include, but are not limited to, predatory pricing, collusion, and tying.

(h) Any person who has been damaged as a result of a violation of this section may bring a civil action in chancery court for injunctive or declaratory relief against the violation.

65-28-103. Discrimination prohibited — Rights and liabilities — Jurisdiction of Tennessee public utility commission — Pilot program to allow intrastate pipeline corporations to transport natural gas to end users.

(a) All such corporations shall furnish equal facilities to all persons and shall not discriminate in services, in charges, or otherwise, either for or against any person, and shall be charged with all duties, responsibilities, and liabilities imposed upon public utility corporations by the laws of this state, and be
subject to the Tennessee public utility commission.

(b)(1) As a pilot project through the end of the year 2003, and notwithstanding any state or local law to the contrary, any intrastate natural gas pipeline corporation, subject to regulation by the Tennessee public utility commission as a public utility, may transport natural gas to end users in Tennessee only if such natural gas is produced from Tennessee wells located in any county contained within the second, fourth, fifth, sixth, seventh or twelfth senatorial districts, and/or in the smallest county by population located in the fifteenth senatorial district, as these districts exist on June 17, 1999, and only if the end users of such natural gas are located in these counties; provided that no such pilot project shall be permitted within the chartered service area of a utility district created by private act. Such intrastate natural gas pipeline corporations shall not transport intrastate natural gas to end users that are served by a municipal utility or by a utility district or within a utility district’s chartered service area on June 17, 1999, unless:

(A) The end user has been served by an interstate pipeline; or

(B) At the option of the utility district or municipal utility, such intrastate natural gas pipeline or end user assumes any contractual obligation of the utility district or municipal utility to an interstate natural gas pipeline incurred on behalf of such end user which remains after termination of service by such end user prior to the end of the term of the contract, tariff or other arrangement pursuant to which the end user receives service.

(2) At the option of the utility district or municipal utility, such intrastate natural gas pipeline may serve end users not now being served by a municipal utility or by a utility district or within a utility district’s chartered service area. This subdivision (b)(2) shall not prohibit service to end users specifically authorized to be served in accordance with subdivision (b)(1)(A).

(3) Any contractual arrangements made by an intrastate natural gas pipeline corporation for transportation of natural gas pursuant to subdivision (b)(1) shall remain in effect according to their terms if such agreements are entered into, or permits are granted, during the pilot project, even though the term of such transportation agreement shall be for a longer term than the pilot project and without regard to whether the pilot project is extended or is not extended.


As used in §§ 65-28-104 — 65-28-111, unless the context otherwise requires:

(1) “Commission” means the Tennessee public utility commission;

(2) “Federal safety standards” means the minimum federal safety standards adopted by the United States department of transportation pursuant to the Natural Gas Pipeline Safety Act (49 U.S.C. § 60101 et seq.) or any amendments thereto which may be adopted in the future;

(3) “Gas” means natural gas, petroleum gas, flammable gas, or gas which is toxic or corrosive;

(4) “Gas public utilities” means any person, firm, corporation or other legal entity of any kind engaged in the transportation of gas, and includes the state of Tennessee, every county in the state of Tennessee, every municipality in the state of Tennessee and every utility district created under title 7, chapter 82, which has not been certified with the department
of transportation under the Natural Gas Pipeline Safety Act, every public body or corporation of whatever kind in the state of Tennessee, and every private or nonpublic entity, when engaged in the transportation of gas;

(5) “Pipeline systems” means new and existing pipeline rights-of-way and any pipeline, equipment facility, and building, used by a public utility in the transportation and distribution of gas or the treatment of gas during the course of transportation and distribution, but “rights-of-way” as used in §§ 65-28-104 — 65-28-111 does not authorize the commission to prescribe the location or routing of any pipeline facility; and

(6) “Transportation of gas” means the gathering, transmission, and distribution of natural gas by pipeline, or its storage, and the transmission and distribution of all kinds of gas other than natural gas.


All pipeline systems used in this state shall be constructed, operated and maintained in such a manner as to at all times be in compliance with the defined minimum safety standards and amendments thereto, as well as such additions and amendments as may be ordered by the commission from time to time.


(a) The commission has the right, power and authority to provide and make certifications, reports and information to the secretary of the United States department of transportation; to enter into agreements with the secretary to carry out the purposes of §§ 65-28-104 — 65-28-111; to enforce safety standards in the state including enforcement of federal safety standards as permitted in the Natural Gas Pipeline Safety Act (49 U.S.C. § 60101 et seq.); and to exercise regulatory jurisdiction over the safety of pipeline systems and transportation of gas in accordance with permission granted by the Natural Gas Pipeline Safety Act.

(b) The commission has the right, power and authority to promulgate reasonable rules and regulations to ensure that each pipeline system is operating in compliance with the required safety standards and to enforce such compliance. It has the right, power and authority to require each public utility to make, maintain and file such books, papers, records and documents as the commission may deem necessary and to require that these books, papers, records and documents be made available to members of the commission and their employees upon request. Authorized representatives of the commission shall be authorized to inspect all pipeline systems, facilities and equipment and shall have the right of access and entry to all buildings and property owned, leased or operated by such systems.

(c) The commission shall be authorized to employ such inspectors or other qualified employees as may be necessary to carry out §§ 65-28-104 — 65-28-111.


Upon petition of the commission, the chancery court, sitting in equity, in any county in which a violation of §§ 65-28-104 — 65-28-111 exists shall have jurisdiction to restrain such violation and to enforce compliance with the safety standards required by such sections.

(a) Any person who violates §§ 65-28-104 — 65-28-111, or of any regulation issued under such sections, is subject to a civil penalty not to exceed ten thousand dollars ($10,000) for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars ($500,000) for any continuing series of violations.

(b) Any civil penalty may be compromised by the commission. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, shall be paid within thirty (30) days after the determination to the commission, to be used for the purposes of §§ 65-28-104 — 65-28-111; and, if not paid within such time, may be recovered in a civil action brought by the commission in the chancery court of any county in which a violation exists.


Nothing in §§ 65-28-104 — 65-28-111 shall be deemed to confer upon the commission any additional power and jurisdiction to supervise or regulate the rates, services, franchises or other matters pertaining to pipeline systems or transportation of gas except with respect to the enforcement of federal safety standards prescribed by the secretary of the United States department of transportation and such additions and amendments as ordered by the commission; nor shall anything in §§ 65-28-104 — 65-28-111 be deemed to confer upon the commission any power to adopt or continue in force any standards for pipeline systems or transportation of gas, including carbon dioxide transported via interstate pipeline, subject to the jurisdiction of the federal power commission as prohibited in the Natural Gas Pipeline Safety Act (49 U.S.C. § 60101 et seq.).

65-28-110. Inspection, control, and supervision fees.

(a) Every public utility engaged in the operation of gas pipeline systems in this state to which this chapter applies, with the exception of those utilities presently paying a fee as provided by chapter 4, part 3 of this title, shall pay to the state, on or before April 1 of each year, a fee for the inspection and supervision of the standards of safety as prescribed by this chapter. The fees collected pursuant to this section shall be used to fund the commission’s gas safety inspection program and shall be segregated in an account so designated.

(b) Such fee shall be paid by such public utility engaged in the operation of gas pipeline systems in addition to any and all property, franchise, license and other taxes, fees and charges fixed, assessed or charged by law against such utility, but shall not be levied against those utilities paying a fee under chapter 4, part 3 of this title.

(c) The amount of such fee is to be measured by the number of active gas meters in service within the service area of each public utility, municipal gas system and gas utility district. Where there are no meters, the fee is to be measured by the number of active services. The fee fixed and assessed against and to be paid by each public utility, municipal gas system, and gas utility
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district is as follows:

(1)(A) A flat rate of one hundred dollars ($100) for all meters in service of up to one hundred fifty-four (154) meters;
(B) Sixty-five cents (65¢) for each meter in service from one hundred fifty-five (155) to two thousand (2,000) meters;
(C) Fifty cents (50¢) for each meter in service from two thousand one (2,001) to ten thousand (10,000) meters; and
(D) Thirty-five cents (35¢) for each meter in service exceeding ten thousand (10,000) in number; or

(2) In the case of interstate pipeline companies or systems, or companies or systems having no gross receipts, or no active meters in service, or other service in this state, but traversing the state in its transmission of gas service, the fee is to be assessed at the rate of four dollars and seventy-five cents ($4.75) per mile of twenty-four inch (24"") equivalent pipeline.

(d) In no case shall the fee to be paid be less than one hundred dollars ($100), which will be the minimum inspection fee to be paid by the public utility engaged in the operation of gas pipeline systems subject to such fee and not presently paying a fee as provided in chapter 4, part 3 of this title, nor more than seventy-eight thousand dollars ($78,000), which shall be the maximum paid by such companies; provided, that for a petroleum gas system subject to the Natural Gas Pipeline Safety Act (49 U.S.C. § 60101 et seq.), except a system serving ten (10) or more customers from a common tank, the fee shall be twenty dollars ($20.00).

(e) The inspection, control and supervision fees provided for in this section shall become due and payable on April 1 of each year.

(f) The inspection fees and penalties provided for in this section shall be collected by the commission.

65-28-201. Short title — Legislative intent — Construction.

(a) This part shall be known and may be cited as the “Landfill Methane Development Act.”

(b) It is recognized by the general assembly that the provision of dependable and economical sources of energy is vital to the health, welfare and economic well-being of the citizens and residents of the state and that one of the primary sources of energy in this state is natural gas. The general assembly further recognizes world supplies of natural gas are limited and that the market for natural gas has undergone major changes in recent years due to increasing demand. It is recognized by the general assembly that the primary constituent of natural gas is methane, and that methane is generated by the natural decomposition of materials deposited in solid waste landfills. Landfill methane is produced in landfills together with other gaseous materials, but the methane may be extracted, treated, and sold as a substitute for natural gas. It is also recognized by the general assembly that, if not utilized for a natural gas substitute or other energy or commercial use, the landfill methane may constitute a pollutant if released into the atmosphere; and, in certain instances under state and federal environmental laws, the landfill methane must be collected and destroyed and the commercial value of the landfill methane would then be wasted. In order to ensure that all persons have the flexibility and power to compete for and obtain methane from landfill gas and treat landfill gas for substitution for natural gas on terms that will result in
continuing availability of both natural gas and landfill methane at reasonable rates to the citizens and residents of the state, and to encourage the reduction or elimination of atmospheric pollution that may occur if the landfill methane were allowed to be introduced into the atmosphere, it is the intent of the general assembly by this part to:

(1) Authorize any person to finance, acquire, own, operate, lease and dispose of rights, titles and interest of every kind and nature in facilities to produce and treat methane produced from landfill properties located within the state as a substitute for natural gas;

(2) Allow any pipeline corporation subject to the jurisdiction of the Tennessee public utility commission to transport landfill methane gas, either alone or mixed with natural gas; and

(3) Authorize any person to contract for the purchase of supplies of landfill methane useable in lieu of natural gas, and transport landfill methane by pipeline from any supplier located inside or outside the state, either alone or mixed with natural gas.

(c) This part shall be liberally construed in conformity with such intent, it being hereby determined and declared that the means provided by this part are needed to provide for the continued availability to state citizens and residents of natural gas or substitutes for natural gas at reasonable rates.


No person desiring to construct or operate a facility for gathering, extracting, purifying, dehydrating, or otherwise treating landfill methane shall be required to obtain any certificate of public convenience and necessity for such construction or operation of such facility from the Tennessee public utility commission. Neither the rates and charges between the parties for construction and operation of any such facility, nor the sales price of any landfill methane produced or treated, shall be subject to economic regulation by the Tennessee public utility commission or any other agency of the state; provided, that the construction and operation of any facility for such operations shall be subject to all other applicable laws.

65-28-205. Rates and charges — Regulation.

The rates and charges for transportation by pipeline of landfill methane, either alone or in combination with natural gas, and the construction of facilities for the transportation by pipeline of landfill methane, whether alone or in combination with natural gas, shall be subject to the jurisdiction of the Tennessee public utility commission to the same extent as the rates and charges, and the construction of facilities for, pipeline transportation of natural gas. No person that is exempt from regulation by the Tennessee public utility commission in the transportation of natural gas shall become subject to such regulation by operation of this section or the transportation by such person of landfill methane, either alone or in combination with natural gas. No person shall be required to transport landfill methane by pipeline in combination with natural gas, if the landfill methane tendered for transportation does not meet quality specifications reasonably required by such person for pipeline transportation of natural gas. The Tennessee public utility commission shall expedite the disposition of any proceeding brought concerning any rate,
charge, or construction of facilities for transportation by pipeline of landfill methane.


Notwithstanding any other law, landfill methane may be transported by any pipeline corporation located wholly in this state or otherwise subject to the regulatory jurisdiction of the Tennessee public utility commission, without regard to where the landfill methane may have been produced or extracted or is to be delivered within the state, and without regard to the size or classification or nature of any customer purchasing or receiving any landfill methane. Such transportation may be provided by an intrastate pipeline corporation by transporting landfill methane either alone or in combination with natural gas.

65-29-130. Jurisdiction of Tennessee public utility commission.

(a) Cooperatives and foreign corporations engaged in rendering telephone service in this state pursuant to this chapter fall within the jurisdiction of the Tennessee public utility commission for the sole and specific purposes as set out below:

1. The establishment of territorial boundaries;
2. The hearing and determining of disputes arising between one (1) telephone cooperative and other telephone cooperatives, and between telephone cooperatives and any other type of person, corporation, association, or partnership rendering telephone service, relative to and concerning territorial disputes; and
3. The approval of sales and purchases of operating telephone properties.

(b) Cooperatives and foreign corporations engaged in rendering telephone service in this state pursuant to this chapter fall within the jurisdiction of the comptroller of the treasury for the sole and specific purpose of assessing the cooperative property for ad valorem taxes as provided in § 65-29-129.

(c) Either party shall have the right of appeal from any ruling, order or action by the commission or the comptroller of the treasury under the procedures established by §§ 4-5-322 and 4-5-323.


Upon investigation, the general assembly has determined that the rates, services and operations of radio common carriers are affected with a public interest, and it is hereby declared to be the policy of this state to provide fair regulation of such carriers in the interest of the public, to promote adequate, economical and efficient radio common carrier service to citizens and residents of this state; to provide just and reasonable rates and charges for radio common carrier services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices; to encourage and promote harmony between radio common carriers and their subscribers; to cooperate with other states and with the federal government in promoting and coordinating efforts to effectively regulate radio common carriers in the public interest; and to these ends, to vest authority in the Tennessee public utility commission to regulate radio common carriers generally and their rates, services and operations, in the manner and in accordance with the policies set
forth in this chapter. This chapter shall not apply to operations of radio or
television broadcast stations licensed and regulated by the federal communica-
tions commission.

65-30-103. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Commission” means the Tennessee public utility commission;

(2) “Radio common carrier” and “carrier” includes any person, firm, corporation, company, association or partnership owning, operating or managing a business of providing radio services to the public on a for-hire basis and under such circumstances as would require a license by the federal communications commission as a miscellaneous common carrier in the domestic public land mobile radio service; provided, that such definition does not include land line telephone or telegraph utilities regulated by the commission or to community antenna television systems; and

(3) “Radio common carrier system” means any facility within this state which is operated to perform for hire the service of radio communications to members of the public who subscribe to such service; and “facility,” as used in this subsection, includes all real property, stations, antennae, radios, receivers, transmitters, instruments, appliances, fixtures and other personal property used by a radio common carrier in providing service to its subscribers.

65-30-104. Applicability of chapter.

(a) This chapter relates only to “radio common carriers” as defined in § 65-30-103 and shall not apply to mobile radio telephone service offered by land line telephone or telegraph utilities regulated by the commission.

(b) This chapter shall not apply to operations of radio or television broadcast stations licensed and regulated by the federal communications commission.


(a) No person or organization shall hereafter begin the construction, extension or operation of a radio common carrier system or acquire ownership or control thereof, without first obtaining from the commission a certificate that the present or future public convenience and necessity require or will require such construction, extension, operation or acquisition.

(b) (1) The application for such a certificate of public convenience and necessity shall be in writing, shall include a description of the territory in which the radio common carrier system is proposed to be constructed, extended, operated or acquired, and shall contain such other information as the commission may prescribe from time to time by rules and regulations or orders, including any and all information as to who will own an interest of any kind in the radio common carrier system, and shall be accompanied by a fee of fifty dollars ($50.00).

(2) Such applicant shall disclose and file with the commission any and all information relating to ownership and control required to be filed with the federal communications commission.

(c) Upon the filing of such an application and the payment of the fee prescribed, the commission shall fix the time and place for a hearing thereon
and shall cause notice thereof to be given to the holder of an existing certificate in
the affected territory, and to the chief executive officer of any government
entity within the affected territory, and to such other parties in interest as the
commission may deem necessary. In the event the applicant proposes to
interconnect its radio common carrier system with the communications system
of an existing land line telephone or telegraph company, then notice of such
hearing and a copy of the application shall be served upon the telephone or
telegraph utility. If the application is to extend a certificated carrier's opera-
tions into a territory contiguous to that of the territory then being actively
served by such carrier, and which territory is not then being served by an
existing carrier, upon the showing of the need for such service in the
contiguous area, such certificated carrier shall be given the preference to serve
such contiguous area.

(d) After such hearing, the commission may issue to the applicant a
certificate of public convenience and necessity in a form to be prescribed by it
or may refuse to issue the same or may issue it for only partial exercise of the
privilege sought, or may attach to the exercise of the right granted by the
certificate such terms, limitations and conditions which it deems the public
interest may require. The certificate shall include a description of the territory
in which the radio common carrier system is to be constructed, extended,
operated or acquired.

(e) In determining whether a certificate shall be issued, the commission
shall take into consideration, among other things, the public need for the
proposed service or acquisition, the suitability of the applicant, the financial
responsibility of the applicant, the ability of the applicant to perform efficiently
the service for which authority is requested.

(f)(1) The commission shall not grant a certificate for a proposed radio
common carrier operation or extension thereof into the established service
area which will be in competition with or duplication of any other certificated
radio common carrier unless it shall first determine that the existing service
is inadequate to meet the reasonable needs of the public and that the person,
firm or corporation operating the same is unable to or refuses or neglects
after hearing on reasonable notice to provide reasonably adequate service.

(2) It is a legislative finding that to provide adequate service, including
meaningful competition in any service area where qualified applicants have
applied for a certificate of public convenience and necessity, the commission
shall grant certificates of public convenience and necessity to a total of two
radio common carriers in each such service area, and that such number
of service providers will provide the highest level of overall service to the
public.

(g)(1) An applicant who is granted a certificate of public convenience and
necessity by the commission shall apply for and seek appropriate authority
from the federal communications commission, and in the event the applicant
fails to do so within six (6) months from the date of grant of authority by the
commission, the applicant shall be deemed to have abandoned its application
to operate as a radio common carrier.

(2) If an applicant, after obtaining a certificate of convenience and
necessity from the commission, and after obtaining appropriate authority
also from the federal communications commission, fails to commence opera-
tions as a radio common carrier within twelve (12) months from the date it
has obtained the appropriate federal authority, the applicant shall be
deemed to have abandoned its intention to operate as a radio common carrier. For good cause shown, this twelve-month period may be extended for another like period.

(h) The granting of any certificate of convenience and necessity to a radio common carrier shall not alter or diminish the right of any land line telephone company rendering communications services in the same area to provide the same or similar radio services within the area specified in the certificate.

(i) The commission may, after affording the holder an opportunity to be heard, revoke, suspend or alter any such certificate of public convenience and necessity for the willful violation of any provision of this chapter or the rules and regulations or orders of the commission made under the authority of this chapter.


(a) The commission has the power and jurisdiction to supervise and regulate every radio common carrier operating within this state and its property, property rights, equipment, facilities, contracts, certificates and franchises so far as may be necessary to carry out the purposes of this chapter, and to do all things, whether specifically designated in this chapter or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction. Without limiting the generality of the foregoing, the commission is authorized to adopt and enforce such reasonable rules and regulations and orders as it may deem necessary with respect to rates, charges and classifications, issuance of certificates, territory of operation, abandonment, suspension, or failure to offer service, adequacy of service prevention or elimination of unjust discrimination between subscribers, financial responsibility, insurance covering personal injury and property damage, uniform system of accounts, records, reports, safety of operation and equipment, and to otherwise accomplish the purposes of this chapter and to implement its provisions.

(b) The commission may, after affording an opportunity for hearing, order a radio common carrier to:

(1) Construct and operate any reasonable extension of its existing system within the certificated territory; or

(2) Make any reasonable repair or improvement of or addition to such system.

(c) The commission may from time to time visit the places of business and other premises and examine the records, and facilities of all radio common carriers to ascertain if there has been compliance with all rules and regulations and orders of the commission, and shall have the power to examine all officers, agents and employees of such radio common carriers, and all other persons, under oath, and to compel the production of papers and the attendance of witnesses to obtain the information necessary for administering this chapter.

(d) The commission has the power and authority to institute all proceedings and investigations, hear all complaints, issue all process and orders, and render all decisions necessary to enforce this chapter or of the rules, regulations and orders adopted thereunder, or to otherwise accomplish the purposes of this chapter.

(e) With respect to borderline jurisdiction between this state and adjacent state jurisdictions, the 37 dBu contour of any base station located in this state
and operated from the base station in the state is construed to mean that area within thirty-five (35) miles of the state base station. The commission shall have full power and authority to negotiate with other state commissions in an effort to determine and work out the conflict, if any, between base stations in this state and the base stations certificated and located in other adjoining states.

(f) The commission has the right to institute, or to intervene as a party in, any action in any court of competent jurisdiction seeking mandamus, injunctive or other relief to compel compliance with this chapter or of any rule, regulation or order adopted thereunder, or to restrain or otherwise prevent or prohibit any illegal or unauthorized conduct in connection with this chapter.


The commission shall prescribe just and reasonable rates, charges and classifications for the services rendered by a radio common carrier to subscribers. Tariffs shall be in such form and filed and published in such manner and on such notice as the commission may prescribe.


(a) Each radio common carrier shall provide safe and adequate service, equipment and facilities for the operation of its system.

(b) No radio common carrier shall demand or receive a greater or less or different compensation for providing service than the rates and charges specified in the tariff filed and approved by the commission.

(c) Every radio common carrier shall obey and comply with every rule and regulation and order adopted by the commission under this chapter.


No radio common carrier shall abandon all or any part of its system or other property necessary or useful in the performance of its duties to the public, or discontinue or temporarily suspend all or any part of the service which it is rendering to the public by the use of same, without first obtaining the approval of the commission. In granting such approval, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

65-30-110. Interconnection with land line telephone utility.

Whenever the commission finds that public convenience and necessity require the interconnection of the radio communications facilities of a certificated radio common carrier with the telephone facilities of a land line telephone utility serving all or part of the certificated territory of the radio common carrier, and that such common carrier and land line telephone utility have failed to agree upon such interconnection or the terms and conditions or compensation for the same, the commission may, upon petition of either party, order that such interconnection be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for such interconnection.
65-31-114. Underground utility damage enforcement board — Executive committee.

(a) There is created within the Tennessee public utility commission, created by § 65-1-101, an underground utility damage enforcement board for the purpose of enforcing this chapter.

(b) The Tennessee public utility commission will provide administrative and investigative support for the board, both subject to concurrence by the board. Pursuant to § 65-2-122, the Tennessee public utility commission shall charge the expenses associated with the administration and investigative duties of the board back to the board, subject to concurrence by the board.

(c) The board shall be composed of sixteen (16) members. Except for initial appointments, members who are not ex officio members shall be appointed to four-year terms. Appointments to the board shall be made as follows:

(1) The president of Tennessee One-Call, Inc., or the president’s designee, who shall be a voting, ex officio member;

(2) One (1) member shall be a person representing the interests of Tennessee natural gas distribution systems, to be appointed by the governor, whose initial term shall be four (4) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Gas Association;

(3) One (1) member shall be a person representing the interests of Tennessee utility districts, to be appointed by the speaker of the senate, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Association of Utility Districts;

(4) One (1) member shall be a person representing the interests of the Tennessee cable industry, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Cable and Telecommunications Association;

(5) One (1) member shall be a person representing the interests of large Tennessee incumbent local exchange carriers with more than one hundred thousand (100,000) customers, to be appointed by the speaker of the house of representatives, whose initial term shall be four (4) years;

(6) One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides water or wastewater services, to be appointed by the speaker of the senate, whose initial term shall be four (4) years;

(7) One (1) member shall be a person representing the interests of Tennessee towns and cities, to be appointed by the governor whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Municipal League;

(8) One (1) member shall be a person representing the interests of small Tennessee incumbent local exchange carriers, to be appointed by the speaker of the senate, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Telecommunications Association;

(9) One (1) member shall be a person representing the interests of Tennessee counties, to be appointed by the speaker of the house of repres-
sentatives, whose initial term shall be three (3) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee County Services Association;

(10) One (1) member shall be a person representing the interests of Tennessee road builders, to be appointed by the governor, whose initial term shall be three (3) years. In considering appointees, the governor shall review a list of qualified persons submitted by the Tennessee Road Builders Association;

(11) One (1) member shall be a person representing the interests of the excavation industry, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Associated Builders and Contractors of Tennessee;

(12) One (1) member shall be a person representing the interests of interstate pipelines, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years;

(13) One (1) member shall be a private property owner representing agricultural or homeowners’ interests, to be appointed by the governor, whose initial term shall be two (2) years;

(14) One (1) member shall be a person representing the interests of municipal electric utilities with underground facilities, to be appointed by the speaker of the senate, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Municipal Electric Power Association;

(15) One (1) member shall be a person representing the interests of cooperative electric systems with underground facilities, to be appointed by the speaker of the house of representatives, whose initial term shall be two (2) years. In considering appointees, the speaker shall review a list of qualified persons submitted by the Tennessee Electric Cooperative Association; and

(16) One (1) member shall be a person who represents the interests of public utilities, as defined in § 65-4-101, and who provides electric power services, to be appointed by the governor, whose initial term shall be four (4) years.

d) Every two (2) years, the board shall elect a chair from among its members and other officers as the board deems necessary.

e) The members of the board shall serve without compensation.

(f)(1) The board shall elect an executive committee, which shall be responsible for levying civil penalties and taking action as described in § 65-31-116.

(2) The executive committee shall be composed of the following members of the board:

(A) One (1) member from subdivision (c)(10), (c)(11), or (c)(13);

(B) One (1) member from a local government; and

(C) One (1) member from a utility.

(3) A member serving on the executive committee shall be limited to two (2) consecutive one-year terms.

(g) The board and the executive committee may hold meetings and vote by telephone, television, or other electronic means.

(a) The board has the power and authority to:

(1) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the conduct of the affairs of the board;

(2) Adopt a seal for the board, prescribe the style of the seal, and alter the seal at the board’s pleasure; and

(3) Make and enter into contracts.

(b) The board shall:

(1) Through its executive committee, initiate investigations and conduct hearings as required by § 65-31-116;

(2) Meet a minimum of two (2) times per calendar year;

(3) Examine data regarding underground utility damage and make recommendations to the general assembly for further updates to this chapter;

(4) Manage the underground damage prevention fund created by § 65-31-117;

(5) Assess its annual operating cost to operators in an amount equal to the amount necessary to offset the cost of investigative and administrative services performed by the Tennessee public utility commission at the direction of the board. The annual operating costs shall be apportioned in a proportional manner and collected by the one-call service from the operators; and

(6) Subject to the availability of funding in the underground damage prevention fund created by § 65-31-117, contract with appropriate entities or agencies to conduct training and public awareness for damage prevention.

(c) Any member who misses more than fifty percent (50%) of the scheduled meetings in a calendar year shall be removed as a member of the board.

(2) The board’s chair shall promptly notify, or cause to be notified, the appointing authority of any member who fails to satisfy the attendance requirement as prescribed in subdivision (c)(1).


(a) Upon receipt of a complaint of a violation of this chapter, the executive committee shall initiate an investigation of the complaint by requesting that the Tennessee public utility commission designate an employee of the commission who will investigate the complaint at the executive committee’s direction.

(b) Any investigator acting at the direction of the executive committee may issue citations for violations of this chapter. Any citation may include a recommendation for the penalty to be assessed under § 65-31-112.

(c) If the person to whom the citation is issued under subsection (b) does not pay the citation or submit to ordered training, or both, within thirty (30) days, then the executive committee shall appoint a hearing officer to conduct a hearing and issue an initial order pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The hearing shall be held at the time and place set forth in the citation notice of hearing. The hearing shall be conducted in the county where the excavation referenced in the citation occurred, unless otherwise agreed to by the person to whom the citation is issued. In the event the excavation occurred in more than one (1) county, then the hearing shall be conducted in the county where the greatest amount of
excavation referenced in the citation occurred.

(d) An appeal of the initial order pursuant to § 4-5-315 shall be heard by the executive committee.

(e) A person aggrieved by the final order may, within sixty (60) days, file a petition for judicial review pursuant to § 4-5-322. In the case of a decision involving an excavation in proximity to underground facilities of a municipally-owned utility located in a county having a population of greater than three hundred thousand (300,000), according to the 2010 federal census or any subsequent federal census, the petition for review shall be filed in the chancery court located in that county. In all other cases, the petition for review shall be filed in the chancery court of Davidson County.

(f) Nothing in this chapter shall grant the executive committee or the board jurisdiction over damage to utilities located above ground.


(a) There is created an underground damage prevention fund within the Tennessee public utility commission. All civil penalties collected pursuant to this chapter shall be deposited into the underground damage prevention fund. Any moneys remaining in the underground damage prevention fund at the end of the fiscal year shall not revert to the general fund, but shall remain in the underground damage prevention fund for the exclusive use of the board.

(b) The expenditure of moneys in the underground damage prevention fund shall be at the discretion of the board for the following purposes:

1) Providing grants to operators with fewer than five thousand (5,000) customers to assist the recipient in complying with the mandatory notification center requirements of this chapter. However, grants shall not be used for operating expenses, and no grants shall be given for this purpose after January 1, 2018; and

2) Contracting with providers of public awareness, educational, and compliance training.

65-31-119. Administrative and investigative support of Tennessee public utility commission limited to advisory capacity.

The administrative and investigative support provided by the Tennessee public utility commission is provided to the board in an advisory capacity only, and nothing in this chapter shall expand the jurisdiction of the Tennessee public utility commission in any way.


The Tennessee public utility commission has jurisdiction to hear and resolve any disputes concerning the boundaries of the current geographic territories of nonconsumer owned electric systems. The commission may promulgate and enforce appropriate rules not inconsistent with this chapter.


As used in this chapter, unless the context otherwise requires:

1) “Owner” means the owner of any property, any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a
part of any structure which is capable of receiving service by a utility;

(2) “Person” means an individual, corporation, firm, company, partnership, association or organization of any kind, public or private;

(3) “Tenant or occupant” means any person who occupies the whole or a part of any building, whether alone or with others, and includes the owner;

(4) “Utility” means any person, municipality, county, cooperative, board, commission, district or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, sanitary sewer service, telephone service, or any combination thereof, for sale to consumers in any particular service area, whether or not regulated by the Tennessee public utility commission; and

(5) “Utility customer” means:

(A) The person or persons listed on the records of the utility as the customer liable for charges or payment for the utility service;

(B) The person or persons residing in the structure where utility services have been connected without permission or authorization of the utility; or

(C) The manager, superintendent, officer or other responsible official of a corporation, partnership, proprietorship, association or other business organization that is listed on the records of the utility as the customer liable for charges for utility service or acting in behalf of a corporation, partnership, proprietorship, association or other business organization where utility services have been connected without permission or authorization of the utility.


Nothing in this chapter confers upon the Tennessee public utility commission the jurisdiction to regulate any utility not expressly subject to regulation by other provision of state law.

65-36-106. Telephone, telegraph and telecommunications services.

Notwithstanding any other provisions of this chapter or other law to the contrary, if the exercise of power or authority granted by this chapter involves any system, plant, or equipment for the provision of telephone, telegraph, telecommunications services or any other like system, plant, or equipment, such exercise, whether by a municipal electric system, an electric cooperative or jointly, shall not be subject to this chapter but instead shall be subject to title 7, chapter 52, as amended. With respect to telephone, telegraph, or telecommunications services, electric cooperatives shall be subject to regulation by the Tennessee public utility commission to the same extent as municipal electric utilities under title 7, chapter 52.


(a) Price differences among retail telecommunications customers shall be strictly prohibited, to the extent that such differences are attributable to race, creed, color, religion, sex or national origin. All other differences in pricing among retail telecommunications customers, as of May 28, 2005, shall be presumed to be a function of the competitive market. This presumption may be rebutted by evidence of price discrimination as prohibited by state law.

(b) Nothing in this section shall alter or expand the jurisdiction of the
Tennessee public utility commission to hear complaints alleging price discrimination as prohibited by state law in retail telecommunications services within its jurisdiction, as its jurisdiction existed immediately prior to May 28, 2005, except to the extent that such jurisdiction is reduced pursuant to exemption by the commission subsequent to May 28, 2005. This chapter does not confer jurisdiction on the commission relating to services outside its jurisdiction as of May 28, 2005. In determining whether differences in pricing among retail telecommunications customers constitute price discrimination as prohibited by state law, the commission shall consider all relevant factors, including, but not limited to, whether:

1. Customers have been or will be injured as a result of the alleged price differences;
2. There is a legitimate business reason to distinguish between the customers who are being treated differently;
3. Customers who are being treated differently are similarly situated;
4. Customers may choose a functionally equivalent service from an alternative service provider at substantially the same price and terms; and
5. The commission has determined previously that existing and potential competition is an effective regulator of the price of the service that is the subject of the complaint.

65-37-103. Retail offering of combinations or bundles of products or services.

(a) (1) The Tennessee public utility commission shall retain regulatory jurisdiction established in this title for specific, individual telecommunications services. Except as provided in this section, the commission shall not assert regulatory jurisdiction over the retail offering of combinations or bundles of products or services, whether or not such combinations or bundles of products or services are subject to a tariff or other regulatory filing with the commission as of May 28, 2005, and whether or not comprised of products or services provided by a local exchange carrier alone or with another company. Nothing in this section shall require any company to engage in joint marketing with another company when it does not choose to do so.

2. In order to transition to the changes in regulatory jurisdiction established by this part, telecommunications carriers shall provide customers with the following notice, as part of the terms and conditions for bundles or combinations: “This offer contains telecommunications services that are also available separately. Should you desire to purchase only the telecommunications services included in this offer, without additional products or services, you may purchase those telecommunications services individually at prices posted on [company website] or filed with the Tennessee public utility commission.”

3. The commission shall issue a statewide public service announcement, no less than once per year, to inform Tennesseans that telecommunications services they purchase may be available at different prices, depending upon whether they are bought individually or bought bundled, and to inform Tennesseans that functionally equivalent services may be available from providers who do not offer service using wire line technology. Scripts for these announcements shall be posted for comments from industry and consumers or their representatives before being used and shall not favor any
one provider or technology over others.

(b) Unless otherwise agreed by the end-user, the terms and conditions established by tariffs or other filings at the commission for combinations or bundles of products or services shall remain effective as to end-users who have selected such combinations or bundles prior to May 28, 2005, for the duration of a term selected by the end-user. If no term was selected by the end-user for a combination or bundle of products or services, or if no term limit applied to such combination or bundle, then the terms and conditions governing that combination or bundle of products or services, at the time the end-user subscribed, shall remain in effect until the end-user agrees or elects otherwise or until the end-user is noticed of a change in terms by the service provider. Terms and conditions originally established by approved tariffs, which are changed and noticed to customers subsequent to May 28, 2005, shall bind end-users. End-users who terminate service within thirty (30) days of issuance of the notice of a change in such terms and conditions shall not be affected by such changed terms and conditions for the period between issuance of the notice and termination of service.

(c) Nothing in this section shall affect, alter or be construed to affect or alter the applicability of state or federal antitrust law or federal telecommunications law or the commission’s authority under federal telecommunications laws.

(d) Any provider of local exchange service shall permit any end-user of basic local exchange telephone service to terminate that service upon request and shall take all administrative steps necessary, including “number portability,” as that term is used in 47 U.S.C. § 153, of the end-user’s existing telephone number, to permit such end-user to begin receiving replacement service from another certificated provider in a timely manner.

(e) Nothing in this section shall alter or expand the commission’s jurisdiction to hear complaints alleging price discrimination, as prohibited by state law, or anti-competitive practices regarding the provision of retail telecommunications services within its jurisdiction as its jurisdiction existed immediately prior to May 28, 2005, except to the extent that such jurisdiction is reduced pursuant to exemption by the commission subsequent to May 28, 2005. This chapter does not confer jurisdiction on the commission relating to services outside its jurisdiction as of May 28, 2005. In evaluating claims of anti-competitive practices in any retail telecommunications services market, the commission shall apply applicable federal or state law and shall consider all relevant factors, including, but not limited to, the following:

1. The geographical and economic extent of commercial demand for functionally-equivalent services;
2. The number and relative longevity of companies providing functionally-equivalent services;
3. The relative gain or loss of revenues attributable to functionally-equivalent services and customers who purchase functionally-equivalent services;
4. The relative increase or decrease in facilities-based investment attributable to providing functionally-equivalent services;
5. The degree to which marketing, pricing and business strategies are utilized to acquire or maintain revenues attributable to functionally-equivalent services and customers who purchase functionally-equivalent services; and
6. The relationship between pricing policies and costs of functionally-
equivalent services.

(f) Nothing in this section shall alter the commission’s jurisdiction to review price regulation filings or conduct rate of return ratemaking analysis, as applicable, for incumbent local exchange carrier (ILEC) telecommunications providers. Revenue for telecommunications services provided in combinations or bundles shall be considered regulated revenue for purposes of price regulation or rate of return rate analysis.

65-37-104. Financial information or reporting — System of accounts.

The Tennessee public utility commission shall not establish or impose upon price-regulated carriers subject to this title state-specific financial information or financial reporting requirements or a uniform system of accounts. Price-regulated carriers subject to this title may be required to file with the commission only that financial information or financial reports that are required to be filed with the federal communications commission. Such commission filing requirements may be satisfied by the carrier by the submission to the commission of a letter explicitly identifying a publicly-available government website on which the information is posted. The inspection, control and supervision fee established in § 65-4-301 shall be based on the financial information contained in such federal reports.

66-16-107. Enforcement against articles left for storage.

(a) If articles received for storage by a retail launderer or retail dry cleaner are not ordered from storage within sixty (60) days from the expiration of the storage date, as fixed upon the memorandum at the time the articles were received for storage, then a notice by registered mail shall be sent to the address given at the time each article was received for storage, or to the new address of the person from whom the article was received, if such person is known to have changed such person’s address, demanding that the article be taken from storage within thirty (30) days, or the storage charges paid and a new contract for storage entered into.

(b) If at the expiration of thirty (30) days the article has not been removed from storage or a new storage contract made, then a second registered letter shall be sent, setting out a general description of the article, the charges against it, and a date not less than twelve (12) days from the date of mailing the letter when the article will be offered by public sale at the principal plant of the person who received it for storage. A copy of the letter shall be posted in a prominent place in the laundry or cleaning plant of the person mailing the letter, where the letter or notice is open to public inspection.

(c) If the charges are not paid by the date fixed for the sale, the article shall be offered for sale and sold to the highest bidder for cash and the proceeds applied to paying the cost of storage and mailing the necessary letters, and the balance shall be retained for a period of six (6) months for the benefit of the person from whom the article was received and shall at any time during those six (6) months be paid to that person on demand. At the expiration of six (6) months from the date of sale, the sum shall be paid to the state treasurer who shall deal with it in accordance with the Uniform Unclaimed Property Act, compiled in chapter 29 of this title.

(a)(1) A marina has a lien on a floating cabin for any assessment levied against the floating cabin pursuant to a written lease or service contract between the marina and the owner of the floating cabin from the time the assessment becomes due, which lien may be enforced by judicial action.

(2) Notwithstanding subdivision (a)(1), a written lease or service contract between a marina and the owner of a floating cabin may provide that the marina's lien may be enforced in like manner as a security interest under title 47, chapter 9, if the marina gives notice of its action to the owner and to all lienholders of record.

(3) Notice shall be deemed sufficient if sent by United States mail, postage prepaid:

(A) If to the owner, at the address of the floating cabin, or, if different, the last address for the owner on file with the marina; or
(B) If to a lienholder, other interested party, or the nominee of record, at the address set forth in an instrument of record; or, if different, at such other address as the lienholder or other interested party may have on file with the marina.

(4) Notice shall be deemed received three (3) days after deposit in the United States mail, postage prepaid. Fees, service charges, late charges, fines, and interest are enforceable as assessments under this section unless the written lease or service contract between the marina and the owner of the floating cabin provides otherwise. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment of the assessment becomes due.

(b)(1) A lien under this section is prior to all other liens and encumbrances on a floating cabin, except:

(A) Liens and encumbrances recorded before the date of the written lease or service contract between the marina and the owner of the floating cabin;
(B) A first or purchase money lien recorded before the date on which the assessment sought to be enforced became delinquent; and
(C) Liens for taxes and other governmental assessments or charges against the floating cabin.

(2) Upon a foreclosure action initiated by a lienholder or the marina under title 47, chapter 9, the marina is entitled to a priority in the proceeds from the foreclosure sale to satisfy the lien under subsection (a) up to the extent of the assessments that are past due during the twelve (12) months immediately preceding institution of an action to enforce the lien. However, notwithstanding this subsection (b) or any law to the contrary:

(A) Any foreclosure by the marina of its lien for assessments shall be subject to any prior lien encumbering the floating cabin and shall not extinguish such lien;
(B) Upon any foreclosure and sale by the holder of a security interest, the sale and foreclosure will be subject to the marina lien up to the payment priority amount set forth in this subdivision (b)(2); and
(C) Any right of foreclosure or priority of the marina shall not be transferable and shall be extinguished if assigned or transferred to a third party.

(c) If two (2) or more marinas have liens for assessments at any time on the
same floating cabin, the priority of the liens shall be determined based on the
date that each lien was created, with an earlier created lien having priority
over a later created lien.

(d) A lien for any delinquent assessment under this section up to the priority
in payment provided in subdivision (b)(2) is perfected without recording. Any
other delinquent amount above the priority of payment provided in subdivision
(b)(2) is perfected by filing a financing statement with the secretary of state,
and shall have priority over any subsequently filed liens.

(e) A lien for unpaid assessments is extinguished unless proceedings to
enforce the lien are instituted within one (1) year after the date the lien for the
assessment becomes effective.

(f) A judgment or decree in any action brought under this section may
include costs and reasonable attorney's fees for the prevailing party.

(g) The marina, upon written request, shall furnish to an owner or to a
holder of any security interest encumbering the floating cabin, or the owner's
or holder's respective authorized agents, a written statement setting forth the
amount of unpaid assessments against the floating cabin. The statement must
be furnished within seven (7) days after receipt of the written request and is
binding on the marina.

(h) As used in this section:

1. “Floating cabin” means a watercraft or other floating structure:
   (A) Primarily designed and used for human habitation or occupation;
   and
   (B) Not primarily designed or used for navigation or transportation on
   water; and

2. “Marina” means a marina, boat dock, dry dock, or dry storage facility.


As used in this part:

1. “Dedicatory instrument”:
   (A) Means each document governing the establishment, maintenance,
or operation of a residential subdivision, planned unit development,
condominium, horizontal property regime, or any similar planned develop-
ment; and
   (B) Includes a declaration or similar instrument subjecting real prop-
erty to:
     (i) Restrictive covenants, bylaws, or similar instruments governing
     the administration or operation of a homeowners’ association;
     (ii) Properly adopted rules and regulations of a homeowners’ associa-
tion; or
     (iii) All lawful amendments to the covenants, bylaws, instruments,
rules, or regulations of a homeowners’ association;

2. “Homeowners’ association” means an incorporated or unincorporated
association owned by or whose members consist primarily of the owners of
the property covered by the dedicatory instrument and through which the
owners, or the board of directors or similar governing body, manage or
regulate the residential subdivision, planned unit development, condo-
miuminum, horizontal property regime, or any similar planned development; and
(3) “Restrictive covenant” means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.


(a) Except as provided in subsection (b), no homeowners’ association shall adopt or enforce a dedicatory instrument provision that prohibits, or has the effect of prohibiting, a property owner from displaying the flag of the United States of America or an official or replica flag of any branch of the United States armed forces, on the property owner’s property.

(b) A homeowners’ association may adopt or enforce reasonable rules and regulations regarding the placement and manner for the display of the flag of the United States of America or an official or replica flag of any branch of the United States armed forces.

(c) The property owner must display the flag of the United States of America in accordance with 4 U.S.C. §§ 5-10.


This part shall apply to dedicatory instruments:

(1) Created on or after July 1, 2017; or
(2) Amended on or after July 1, 2017.


This part shall be known as the “Uniform Unclaimed Property Act.”

66-29-102. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Apparent owner” means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder;

(2) “Business association” means a for-profit or nonprofit corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity;

(3) “Confidential information” has the same meaning as described in § 66-29-178;

(4) “Domicile” means:

(A) For a corporation, the state of its incorporation;

(B) For a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing;

(C) For a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of its home office; and

(D) For any other holder, the state of its principal place of business;

(5) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;
(6) “Electronic mail” means any communication of information by electronic means that is automatically retained and stored and may be readily accessed or retrieved;

(7) “Financial organization” means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union;

(8) “Game-related digital content” means digital content that exists only in an electronic game or electronic-game platform. “Game-related digital content”:

(A) Includes:

(i) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(ii) The following if for use or redemption only within that game or platform or another electronic game or electronic-game platform:

(a) Points sometimes referred to as gems, tokens, gold, and similar names; and

(b) Digital codes; and

(B) Does not include an item that the issuer:

(i) Permits to be redeemed for use outside of a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(ii) Otherwise monetizes for use outside of a game or platform;

(9) “Gift card”:

(A) Means a stored-value card:

(i) The value of which does not expire;

(ii) That may be decreased in value only by redemption for merchandise, goods, or services; and

(iii) That, unless required by law, must not be redeemed for or converted into money or otherwise monetized by the issuer; and

(B) Includes a prepaid commercial mobile radio service, as that term is defined in 47 CFR 20.3;

(10) “Holder” means a person obligated to hold for the account of, or to deliver or pay to, the owner of property that is subject to this part;

(11) “Insurance company” means an insurer, not-for-profit hospital and medical corporation regulated under title 56, chapter 29, health maintenance organization, fraternal benefit society, or any person or entity required to obtain a certificate of authority or similar license from the department of commerce and insurance under title 56 in order to issue or enter into contracts of insurance in this state. “Insurance company” also includes any person or entity that has regulatory approval in its state of domicile to issue or enter into contracts of insurance and that would be required to obtain a certificate of authority or similar license from the department of commerce and insurance under title 56 if it issued or entered into contracts of insurance in this state;

(12) “Local government” means any metropolitan government, municipality, or county located in this state;

(13) “Loyalty card” means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. “Loyalty card” does not include a record that may be redeemed for money or otherwise monetized by the
(14) “Military medal” means any decoration or award that may be presented or awarded to a member of the armed forces of the United States or national guard;

(15) “Mineral” means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by any other law of this state;

(16) “Mineral proceeds” means an amount payable for extraction, production, or sale of minerals or, on the abandonment of the amount, the amount that becomes payable after abandonment. “Mineral proceeds” includes an amount payable:

(A) For the acquisition and retention of a mineral lease, including, but not limited to, a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

(B) For the extraction, production, or sale of minerals, including, but not limited to, a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) Under an agreement or option, including, but not limited to, a joint operating agreement, unit agreement, pooling agreement, and farm out agreement;

(17) “Money order” means a payment order for a specified amount of money and includes, but is not limited to, an express money order and a personal money order on which the remitter is the purchaser;

(18) “Municipal bond” means a bond of evidence of indebtedness issued by a municipality or other political subdivision of a state;

(19) “Net card value” means the original purchase price or original issued value of a stored-value card, plus amounts added to its original value and minus amounts used and any service charge, fee, or dormancy charge permitted by law;

(20) “Non-freely transferable security” means a security that cannot be delivered to the treasurer by the Depository Trust & Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets, or that cannot be delivered because there is no agent to effect transfer. “Non-freely transferable security” includes a worthless security;

(21) “Owner” means a person who has a legal, beneficial, or equitable interest in property subject to this part or the person’s legal representative when acting on behalf of the owner. “Owner” includes:

(A) A depositor, for a deposit;

(B) A beneficiary, for a trust other than a deposit in trust;

(C) A creditor, claimant, or payee, for other property; and

(D) The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value;

(22) “Payroll card” means a record that evidences a payroll card account, as that term is defined in 12 CFR 1005.2;

(23) “Person” means an individual, estate, business association, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;
“Property” means tangible property described in §§ 66-29-109, 30-2-702, and 31-6-107 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder’s business or by a government, governmental subdivision, agency, or instrumentality. “Property”:

(A) Includes all income from or increments to the property;
(B) Includes property referred to as or evidenced by:
   (i) Money, virtual currency, interest, dividend, check, draft, deposit, or payroll card;
   (ii) A credit balance, customer’s overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or an unidentified remittance;
   (iii) A security, other than:
      (a) A worthless security; or
      (b) A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, and that restricts the holder’s or owner’s ability to lawfully receive, transfer, sell, or otherwise negotiate the security;
   (iv) A bond, debenture, note, or other evidence of indebtedness;
   (v) Money deposited to redeem a security, make a distribution, or pay a dividend;
   (vi) An amount that has become due and payable by an insurance company in accordance with the terms of the applicable contract or as otherwise determined by this part;
   (vii) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and
   (C) Does not include:
      (i) Game-related digital content;
      (ii) A loyalty card;
      (iii) An in-store credit for returned merchandise; or
      (iv) A gift card;

(25) “Putative holder” means a person believed by the treasurer to be a holder, until the person pays or delivers to the treasurer property subject to this part or until a final determination is made that the person is a holder;

(26) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(27) “Security” means:
   (A) A security interest, as that term is defined in § 47-1-201; or
   (B) A security entitlement, as that term is defined in § 47-8-102, including, but not limited to, a customer security account held by a registered broker-dealer, to the extent that the financial assets held in the security account are not registered on the books of the issuer in the name of, payable to the order of, or specifically endorsed to, the person for whom the broker-dealer holds the assets;

(28) “Sign” means, with present intent to authenticate or adopt a record:
   (A) To execute or adopt a tangible symbol; or
   (B) To attach to or logically associate with the record an electronic
symbol, sound, or process;
(29) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;
(30) “Stored-value card”:
(A) Means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record equal to the value or amount shown in the record;
(B) Includes:
(i) A record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and
(ii) A payroll card; and
(C) Does not include a loyalty card, gift card, or game-related digital content;
(31) “Treasurer” means the state treasurer;
(32) “Treasurer’s agent” means a person with whom the treasurer contracts to conduct an examination under § 66-29-157 on behalf of the treasurer and an independent contractor of the person. “Treasurer’s agent” includes each individual participating in the examination on behalf of the person or contractor;
(33) “Utility” means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:
(A) The transmission of communications or information;
(B) The production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
(C) The provision of sewage and septic services, trash or garbage services, or recycling disposal;
(34) “Virtual currency” means a digital representation of value used as a medium of exchange, unit of account, or a store of value that is not recognized by the United States as legal tender. “Virtual currency” does not include:
(A) The software or protocols governing the transfer of the digital representation of value;
(B) Game-related digital content; or
(C) A loyalty card or gift card; and
(35) “Worthless security” means a security whose cost of liquidation and delivery would exceed the value of the security on the date a report is due under this part.

66-29-103. Inapplicability to foreign transactions.

This part does not apply to property held, due, and owing in a foreign country if the transaction involving the property was a wholly foreign transaction.
66-29-104. Promulgation of rules.

The treasurer may promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to carry out this part.

66-29-105. Presumption of abandonment of various types of property.

(a) Except as otherwise provided in § 66-29-113, property is presumed abandoned if it is unclaimed by the apparent owner at the time specified for the following property:

(1) A traveler’s check, fifteen (15) years after issuance;
(2) A money order, seven (7) years after issuance;
(3) A state or municipal bond, a bearer bond, or an original-issue-discount bond, three (3) years after the earlier of the date the bond matures or the date the bond is called or the obligation to pay the principal of the bond arises;
(4) A debt of a business association, three (3) years after the obligation to pay arises;
(5) A payroll card or demand, savings, or a time deposit, including a deposit that is automatically renewable, three (3) years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner; provided, that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to a renewal at or about the time of the renewal;
(6) Money or credits owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three (3) years after the obligation arose;
(7) An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three (3) years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of death of the insured or annuitant, three (3) years after the earlier of the date:
   (A) The insurance company has knowledge of the death of the insured or annuitant; or
   (B) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy or contract is based;
(8) Property distributable by a business association in the course of dissolution, one (1) year after the property becomes distributable;
(9) Property held by a court, including property received as proceeds of a class action, one (1) year after the property becomes distributable;
(10) Property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one (1) year after the property becomes distributable;
(11) Wages, commissions, bonuses, or reimbursements as to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one (1) year after the amount becomes payable;
(12) A deposit or refund owed to a subscriber by a utility, one (1) year after
the deposit or refund becomes payable;

(13) Property payable or distributable in the course of the demutualization of an insurance company, three (3) years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable; and

(14) All other property not specified in this section or § 66-29-106, § 66-29-107, § 66-29-108, § 66-29-109, § 66-29-110, or § 66-29-111, the earlier of three (3) years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

(b) Notwithstanding § 66-29-113, property whose owner is known to the holder to have died and left no one to take the property by will and no one to take the property by intestate succession, is presumed abandoned without regard to any activity or inactivity within specified abandonment periods.

(c)(1) Notwithstanding any provision of this section to the contrary, any outstanding check, draft, credit balance, customer’s overpayment, or unidentified remittance issued to a business entity or association as part of a commercial transaction in the ordinary course of a holder’s business is not presumed abandoned if the holder and such business entity or association have an ongoing business relationship. An ongoing business relationship is deemed to exist if the holder has engaged in a commercial, business, or professional transaction involving the sale, lease, license, or purchase of goods or services with the business entity or association or a predecessor-in-interest of the business entity or association within the dormancy period immediately following the date of the check, draft, credit balance, customer’s overpayment, or unidentified remittance giving rise to the unclaimed property interest. A transaction between the holder and a third-party insurer of another is a commercial transaction which constitutes an ongoing business relationship between the holder and the insurer.

(2) As used in this subsection (c):

(A) “Dormancy period” means the period during which a holder may hold a property interest before it is presumed to be abandoned; and

(B) “Predecessor-in-interest” is a person or entity whose interest in a business entity or association was acquired by its successor-in-interest, whether by purchase of the business ownership interest, purchase of business assets, statutory merger, consolidation, or a successive acquisition by whatever means accomplished.


(a) Except as otherwise provided in § 66-29-113, and except for property held in a governmental plan, as that term is defined in 26 U.S.C. § 414, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States, is presumed abandoned if it is unclaimed by the apparent owner three (3) years after the later of:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service, or, if the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was
returned undelivered by the United States postal service; or

(2) The earlier of:
   (A) The date the apparent owner becomes seventy and one-half (70 ½)
       years of age, if determinable by the holder; or
   (B) If the Internal Revenue Code (26 U.S.C. § 1 et seq.) requires
       distribution, two (2) years after the date the holder in the ordinary course
       of its business receives confirmation of the death of the apparent owner.

(b) If a holder in the ordinary course of its business receives notice or an
    indication of the death of an apparent owner and subdivision (a)(2) applies, the
    holder shall attempt, not later than ninety (90) days after receipt of the notice
    or indication, to confirm whether the apparent owner is deceased.

(c) If the apparent owner of an account described in subsection (a) does not
    receive communications from the holder by first-class United States mail, the
    holder shall attempt to confirm the apparent owner’s interest in the property
    by sending the apparent owner an electronic mail communication not later
    than two (2) years after the apparent owner’s last indication of interest in the
    property. If the holder receives notification that the electronic mail communi-
    cation was not received, or if the apparent owner does not respond to the
    electronic mail communication within thirty (30) days after the communication
    was sent, the holder shall promptly attempt to contact the apparent owner by
    first-class United States mail. If the mail is returned to the holder undelivered
    by the United States postal service, the property is presumed abandoned three
    (3) years after the later of:

(1) The date a second consecutive communication to contact the apparent
    owner sent by first-class United States mail is returned to the holder
    undelivered by the United States postal service, or, if the second communi-
    cation is sent later than thirty (30) days after the date the first communi-
    cation is returned undelivered, the date the first communication was
    returned undelivered by the United States postal service; or

(2) The date established by subdivision (a)(2).

66-29-107. Presumption of abandonment of other tax-deferred ac-
    counts.

Except as otherwise provided in § 66-29-113, and except for property
    described in § 66-29-106, property held in a governmental plan, as that term
    is defined in 26 U.S.C. § 414, and property held in a program described in
    Section 529A of the Internal Revenue Code (26 U.S.C. § 529A), property held
    in an account or plan, including a health savings account, that qualifies for tax
    deferral under the income tax laws of the United States is presumed aban-
    doned if it is unclaimed by the owner three (3) years after the earlier of:

(1) The date, if determinable by the holder, specified in the income tax
    laws and regulations of the United States by which distribution of the
    property must begin to avoid a tax penalty, with no distribution having been
    made; or

(2) Thirty (30) years after the date the account was opened.

66-29-108. Presumption of abandonment of custodial account for mi-
    nor.

(a) Except as otherwise provided in § 66-29-113, property held in an
    account established under title 35, chapter 7, is presumed abandoned if it is
    unclaimed by or on behalf of the minor on whose behalf the account was opened
three (3) years after the later of:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States postal service, or, if the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or

(2) The date on which the minor on whose behalf the account was opened reaches the statutory age of majority in accordance with title 35, chapter 7, under which the account was opened.

(b) If the custodian of the minor on whose behalf an account described in subsection (a) was opened does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the custodian’s interest in the property by sending the custodian an electronic mail communication not later than two (2) years after the custodian’s last indication of interest in the property. If the holder receives notification that the electronic mail communication was not received, or if the custodian does not respond to the electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the custodian by first-class United States mail. If the mail is returned undelivered to the holder by the United States postal service, the property is presumed abandoned three (3) years after the later of:

(1) The date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States postal service; or

(2) The date established by subdivision (a)(2).

(c) When the minor on whose behalf an account described in subsection (a) reaches the age required for transfer to a minor of custodial property under applicable law, the property in the account is no longer subject to this section.


(a) The following property related to safe deposit boxes is presumed abandoned:

(1) Any surplus amount resulting from the sale or disposal of safe deposit contents by banking institutions under § 45-2-907, if the proceeds cannot be credited to an existing customer account upon sale, and any unsold contents. Any credit of such proceeds to a customer account is not deemed to be account activity under § 66-29-113; and

(2) For any person, other than a bank, savings and loan association, or savings bank, any funds or personal property removed from a safe deposit box, a safekeeping repository or agency, or a collateral deposit box as the result of the expiration or termination of a lease or rental period due to nonpayment of rental charges or for any other reason, and that have been unclaimed by the owner for more than two (2) years from the date on which the lease or rental period expired or terminated, including any surplus amount arising from the sale thereof, pursuant to law, that has been unclaimed by the owner for one (1) year.

(b) Notwithstanding any other provision of law to the contrary, any military
medal that is removed from a safe deposit box, a safekeeping repository or agency, or a collateral deposit box as a result of the expiration or termination of a lease or rental period due to nonpayment of rental charges or for any other reason, must not be sold or otherwise disposed of, and must be retained by the holder for the lessee of the box. If the military medal remains unclaimed by the lessee for more than one (1) year from the date the box is opened, the holder shall report such property to the state treasurer by November 1 of the subsequent calendar year. The report must comply with § 66-29-123. The holder shall deliver, with the report, the military medal to the state treasurer for safekeeping in accordance with § 66-29-145.


(a) Except as otherwise provided in § 66-29-113, a stored-value card other than a payroll card or a gift card is presumed abandoned five (5) years after the later of:

(1) December 31 of the year in which the card is issued or additional funds are deposited into it;
(2) The most recent indication of interest in the card by the apparent owner; or
(3) A verification or review of the balance by or on behalf of the apparent owner.

(b) The amount abandoned by the owner in a stored-value card is the net card value at the time it is presumed abandoned.

66-29-111. Presumption of abandonment of security.

(a) Except as otherwise provided in § 66-29-113, a security is presumed abandoned three (3) years after:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or
(2) If the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States postal service.

(b) If the apparent owner of a security does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner’s interest in the security by sending the apparent owner an electronic mail communication not later than two (2) years after the apparent owner’s indication of interest in the security. If the holder receives notification that the electronic mail communication was not received, or if the apparent owner does not respond to the electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the apparent owner by first-class United States mail. If the mail is returned to the holder undelivered by the United States postal service, the security is presumed abandoned three (3) years after the date the mail is returned.


At the time an interest in property is presumed abandoned under this part, any other property right accrued or accruing to the apparent owner as a result
of the interest, and not previously presumed abandoned, is also presumed abandoned.

66-29-113. Indication of apparent owner's interest in property.

(a) Property is not presumed abandoned if the apparent owner indicates an interest in the property during the applicable periods under this part.

(b) Under this part, an indication of an apparent owner's interest in property includes:

1. A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

2. An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

3. Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to:

   A. An account;
   B. An underlying security; or
   C. An interest in a business association;

4. Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or instruction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

5. Making a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner, other than an automatic reinvestment of dividends or interest;

6. Except as otherwise provided in subsection (e), payment of a premium on an insurance policy;

7. Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner is aware that the property exists; and

8. The apparent owner has another property with the holder to which § 66-29-105(a)(5) applies, for which the name and address on file with the holder for the apparent owner is the same, and for which the apparent owner has:

   A. Communicated in writing with the holder; or
   B. Otherwise indicated an interest under this section and if the holder communicates in writing with the apparent owner with regard to the property that would otherwise be abandoned at the address to which communications regarding the other property regularly are sent.

(c) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

(d) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.

(e) The application of an automatic premium loan provision or other
nonforfeiture provision contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

66-29-114. Knowledge of death of insured or annuitant.

(a) As used in this section, “death master file” means the federal social security administration death master file or other database or service that is at least as comprehensive as the death master file for determining that a person reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

1. The company receives a death certificate or a court order determining that the insured or annuitant has died;
2. Due diligence performed to maintain contact with the insured or annuitant, or to determine whether the insured or annuitant has died, results in validation of the death of the insured or annuitant;
3. A comparison is conducted by the company for any purpose between a death master file and the names of some or all of the company’s insureds or annuitants, and a match is found providing notice that the insured or annuitant has died and the company validates the death;
4. A comparison is conducted by the treasurer or the treasurer’s agent for the purpose of finding matches during an examination conducted under § 66-29-157 between a death master file and the names of some or all of the company’s insureds or annuitants, and a match is found providing notice that the insured or annuitant has died and the company validates the death; or
5. The company:
   A. Receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee, or from a personal representative, executor, or other legal representative of the insured’s or annuitant’s estate; and
   B. Validates the death of the insured or annuitant.

(c) The following provisions apply to a death master file comparison under subdivisions (b)(3) and (b)(4):

1. A death master file match occurs if the criteria for a match are satisfied as provided by the Unclaimed Life Insurance Benefits Act, compiled in title 56, chapter 7, part 34;
2. A death master file match does not constitute proof of death for purposes of submission of a claim by a beneficiary, annuitant, or owner of the policy or contract to an insurance company for amounts due under an insurance policy or annuity contract;
3. A death master file match under subdivision (b)(3) or (b)(4), or validation of the insured’s or annuitant’s death, does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract; and
(4) In the event a death master file match occurs, the insurance company that has a potential obligation as a result of the death of the insured or annuitant shall comply with the requirements of § 56-7-3404(b) upon discovering the match.

(d) This part does not affect the determination of the extent to which an insurance company before July 1, 2017 had knowledge of the death of an insured or annuitant, or was required to conduct a death master file comparison, or the determination of the extent to which the treasurer or the treasurer’s agent before July 1, 2017 was authorized to conduct a comparison for the purpose of finding matches during an examination under § 66-29-157, and to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed. An insurance company shall comply with, and the treasurer or the treasurer’s agent may conduct an examination to ensure compliance with, the requirements of § 56-7-3404.

66-29-115. Deposit account for proceeds of insurance policy or annuity contract.

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the beneficiary of the policy or contract, and the proceeds are retained by the insurance company or its agent under a supplementary contract not involving annuity benefits other than death benefits, the policy or contract includes the assets in the account.

66-29-116. Last known address of apparent owner.

Under this part:

(1) The last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state of residence, regardless of whether the description, code, or indication of location is sufficient to direct the delivery of first-class United States mail to the apparent owner;

(2) If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically indicate that the physical address of the apparent owner is located in a different state;

(3) If records indicate that the address of the apparent owner is located in a different state in accordance with subdivision (2), the different state is deemed to be the state of the last known address of the apparent owner; and

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be identified under § 66-29-117.

66-29-117. Treasurer’s custody of property presumed abandoned.

The treasurer may take custody of property that is presumed abandoned, whether located in this state, another state, or in a foreign country if:
(1) The last known address of the apparent owner, as shown on the records of the holder, is located in this state; or

(2) The records of the holder do not reflect the identity or last known address of the apparent owner, and the treasurer has determined that the last known address of the apparent owner is located in this state.

66-29-118. Custody of property presumed abandoned if records show multiple addresses of apparent owner.

(a) Except as otherwise provided in subsection (b), if records of a holder reflect multiple addresses for an apparent owner and if this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.

(b) If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection (a) is a temporary address and if this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of property presumed abandoned.

66-29-119. Custody of property presumed abandoned if holder domiciled in state.

(a) Except as otherwise provided in subsection (b), § 66-29-117, or § 66-29-118, the treasurer may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state, or is the state or a governmental subdivision, agency, or instrumentality of this state, and:

(1) Another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or

(2) The state or foreign country in which the last known address of the apparent owner or other person entitled to the property is located does not provide for custodial taking of the property.

(b) The property is not subject to the custody of the treasurer under subsection (a) if:

(1) The property is specifically exempt from custodial taking under the law of the state or foreign country in which the last known address of the apparent owner or other person entitled to the property is located; or

(2) The property is specifically exempt from custodial taking under the law of this state.

(c) For the purposes of this section, if the holder’s state of domicile has changed since the time the property was presumed abandoned, the holder’s state of domicile is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

66-29-120. Custody of property presumed abandoned if transaction took place in this state.

Except as otherwise provided in §§ 66-29-117 — 66-29-119, the treasurer may take custody of property presumed abandoned, whether located in this or another state, if:

(1) The transaction involving the property occurred in this state;
(2) The holder is domiciled in a state that does not provide for the
custodial taking of the property; provided, that if the property is specifically
exempt from custodial taking under the law of the state of the holder's
domicile, the property is not subject to the custody of the treasurer; and
(3) The last known address of the apparent owner or other person entitled
to the property is unknown or in a state that does not provide for the
custodial taking of the property; provided, that if the property is specifically
exempt from custodial taking under the law of the state in which the last
known address is located, the property is not subject to the custody of the
treasurer.

66-29-121. Custody of traveler's check, money order, or similar instru-
ment presumed abandoned.

The treasurer may take custody of sums payable on a traveler's check,
money order, or similar instrument presumed abandoned to the extent

66-29-122. Burden of proof to establish treasurer's right to custody.

When the treasurer asserts a right to custody of unclaimed property, the
treasurer has the burden to prove:
(1) The existence and amount of the property;
(2) The property is presumed abandoned; and
(3) The property is subject to the custody of the treasurer.

66-29-123. Report required by holder.

(a) A holder of property presumed abandoned and subject to the custody of
the treasurer shall report in a record to the treasurer concerning the property.
The report must be filed through an electronic medium in a manner prescribed
by the treasurer. The treasurer may waive the requirement to file the report
through an electronic medium if the holder demonstrates in writing that strict
compliance would be too costly or oppressive to the holder. In such event, the
holder shall file the report in such alternate medium as the treasurer deems
acceptable.

(b) A holder may contract with a third party to create the report required
under subsection (a).

(c) Regardless of whether a holder contracts with a third party under
subsection (b), the holder is responsible:
(1) To the treasurer for the complete, accurate, and timely reporting of
property presumed abandoned; and
(2) For paying or delivering to the treasurer property described in the
report filed under this section.


(a) The report required under § 66-29-123 must:
(1) Be signed by or on behalf of the holder and verified as to its
completeness and accuracy;
(2) If filed electronically, be in a secure format approved by the treasurer;
(3) Describe the property;
(4) Except for the report of a traveler's check, money order, or similar
instrument, contain, if known or readily ascertainable, the name, last known
address, date of birth, and social security number or taxpayer identification number of the apparent owner of property with a value of fifty dollars ($50.00) or more;

(5) In the case of an amount held or owing under a life or endowment insurance policy or annuity contract, contain the full name and last known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;

(6) In the case of property held in or removed from a safe-deposit box, indicate the contents of the property and the name and last known address of the apparent owner;

(7) Contain the commencement date for determining abandonment under this part;

(8) State that the holder has complied with the notice requirements of § 66-29-128;

(9) Identify property that is a non-freely transferable security, and explain why it is a non-freely transferable security; and

(10) Contain any other information the treasurer may require by rule.

(b) A report under § 66-29-123 may include, in the aggregate, items valued at less than fifty dollars ($50.00) per item. If the report includes items, in the aggregate, valued at less than fifty dollars ($50.00) per item, the treasurer shall not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report under § 66-29-123 may include confidential information as described in § 66-29-178 about the apparent owner or the apparent owner’s property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person who previously held the property for the apparent owner, the holder shall include in the report under § 66-29-123 its former name or the name of the previous holder, if any, and the last known name and address of each previous holder of the property.

66-29-125. Filing of report.

(a) The report under § 66-29-123 must be filed before May 1 of each year and report property held as of December 31 of the preceding year.

(b) Before the date for filing the report under § 66-29-123, the holder of property presumed abandoned may request the treasurer to extend the time for filing. The treasurer may grant an extension for good cause. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due. The payment or partial payment terminates accrual of interest on the amount paid.

66-29-126. Retention of records by holder.

A holder required to file a report under § 66-29-123 shall retain records for ten (10) years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is prescribed by rule of the treasurer. A holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

(1) The information required to be included in the report;

(2) The date, place, and nature of the circumstances that gave rise to the
property right;
(3) The amount or value of the property;
(4) The last address of the apparent owner, if known to the holder; and
(5) If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, and on which the holder is directly liable a record of the instruments while they remain outstanding indicating the state and date of issuance.

66-29-127. Property reportable and payable or deliverable absent owner demand.

Property is reportable and payable or deliverable under this part even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

66-29-128. Agreements to ascertain whereabouts of apparent owner — Notice to apparent owner by holder.

(a) Any holder of property not yet presumed abandoned under this part may enter into agreements as may be necessary to ascertain the whereabouts of the apparent owner; provided, that costs associated with such agreements must not be deducted from the property or charged to the owner.

(b) Except as otherwise provided in subsection (c), the holder of property presumed abandoned shall send notice that complies with § 66-29-129 to the apparent owner in a form approved by the treasurer, by first-class United States mail, not more than one hundred eighty (180) days, nor less than sixty (60) days, before filing the report under § 66-29-123 if:
(1) The holder has in its records an address for the apparent owner sufficient to direct the delivery of first-class United States mail to the apparent owner, which the holder's records do not disclose to be invalid; and
(2) The value of the property is fifty dollars ($50.00) or more.

(c) If an apparent owner has consented to receive electronic mail communications from the holder, the holder shall send the notice described in subsection (a) both by first-class United States mail to the apparent owner's last known mailing address and by electronic mail, unless the holder has reason to believe that the apparent owner's electronic mail address is not valid.

66-29-129. Contents of notice by holder.

(a) The notice under § 66-29-128 must contain a heading that reads substantially as follows: “Notice: The State of Tennessee requires us to notify you that your property may be transferred to the custody of the treasurer if you do not contact us within thirty (30) days after the date of this notice.”

(b) The notice under § 66-29-128 must:
(1) State that the property will be turned over to the treasurer;
(2) State that, after the property is turned over to the treasurer, an apparent owner that seeks return of the property must file a claim with the treasurer;
(3) Identify any owners of the property;
(4) Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
(5) State that property which is not legal tender of the United States may be sold by the treasurer; and

(6) Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the treasurer.

66-29-130. Notice by treasurer.

(a) The treasurer shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the treasurer under this part. The treasurer may prescribe by rule a minimum dollar value for items for which notice is sent.

(b) In providing notice under subsection (a), the treasurer shall:

(1) Except as otherwise provided in subdivision (b)(2), send written notice by first-class United States mail to each apparent owner of property held by the treasurer, unless the treasurer determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner consented to receiving electronic mail from the holder, send notice by electronic mail rather than first-class United States mail if the electronic mail address of the apparent owner is known to the treasurer;

(2) Send the notice to the apparent owner’s electronic mail address if the treasurer does not have a valid United States mail address for an apparent owner, but has an electronic mail address that the treasurer does not know to be invalid;

(3) Publish every six (6) months in at least one newspaper of general circulation in this state notice of property held by the treasurer that must include:

(A) The total value of property received by the treasurer during the immediately preceding six (6) months, as indicated from the reports filed under § 66-29-123;

(B) The total value of claims paid by the treasurer during the immediately preceding six (6) months;

(C) The address of the unclaimed property website maintained by the treasurer;

(D) A telephone number and electronic mail address to contact the treasurer to inquire about or claim property; and

(E) A statement that a person may access the unclaimed property website of the treasurer through a computer to search for unclaimed property and that a computer may be available as a service to the public at a local public library; and

(4) Maintain a website or database, accessible by the public, that is electronically searchable and that contains the names reported to the treasurer of all apparent owners for whom property is being held by the treasurer; provided, that the treasurer may prescribe by rule a minimum dollar value for property listed on the website.

(c) The website or database maintained under subdivision (b)(4) must include instructions for filing with the treasurer a claim to property.

(d) In addition to giving notice under subsection (b), the treasurer may use printed publication, telecommunication, the internet, or other media to inform the public of the existence of unclaimed property held by the treasurer.
66-29-131. Cooperation among state officers and agencies to locate apparent owner.

Unless otherwise prohibited by any law of this state, on request of the treasurer, each officer, agency, board, commission, division, and department of this state, any body, politic and corporate, created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the treasurer and cooperate with the treasurer to determine the current address of an apparent owner of property held by the treasurer under this part.

66-29-132. Good faith payment or delivery of property by holder.

Under this part, payment or delivery of property is made in good faith if a holder:
  (1) Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the treasurer under this part; or
  (2) Made payment or delivery:
    (A) In response to a demand by the treasurer or treasurer’s agent; or
    (B) Pursuant to guidance or a ruling issued by the treasurer that the holder reasonably believed required or permitted the property to be paid or delivered.

66-29-133. Dormancy charge.

(a) A holder may deduct a dormancy charge from property required to be paid or delivered to the treasurer if:
  (1) A valid and enforceable contract between a holder and an apparent owner authorizes imposition of the charge for the apparent owner’s failure to claim the property within a specified time; and
  (2) The holder regularly imposes the charge and does not regularly reverse or otherwise cancel the charge.
(b) The amount of the deduction under subsection (a) is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner’s property and any services received by the apparent owner.

66-29-134. Payment or delivery of property to treasurer.

(a) Except as otherwise provided in this section, upon filing a report under § 66-29-123, the holder shall pay or deliver to the treasurer the property described in the report. Property paid to the treasurer must be remitted through an electronic funds transfer as prescribed by the treasurer. The treasurer may waive the requirement to submit payment by electronic means for holders who demonstrate in writing that compliance would be too costly or oppressive to the holder.
(b) Any unclaimed checks held by the state that were derived from one hundred percent (100%) federal funding must not be delivered to the treasurer under this part if such delivery would render the state ineligible for future federal funding. Upon written request and for good cause shown, the treasurer may postpone the payment or delivery upon such terms and conditions as the treasurer deems necessary and appropriate.
(c) If property in a report under § 66-29-123 is an automatically renewable
deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the treasurer at the time of the report, the date for payment of the property to the treasurer is extended until the date when payment would no longer result in a penalty or forfeiture if the holder informs the treasurer of such date.

(d) Except for military medals, tangible property must not be delivered to the treasurer at the time of filing the report. The treasurer shall review the report of such property and be given the opportunity to decline to receive any such property reported if the treasurer determines that the value of the property is less than the cost of giving notice and holding sale, or the treasurer may, because of the small sum involved, postpone taking possession until property of a sufficient value accumulates. Unless the holder of such property is notified to the contrary within one hundred twenty (120) days after filing the report required under § 66-29-123, the treasurer is deemed to have elected to receive custody of the property and the holder thereof shall, at the end of such one hundred twenty (120) days, pay or deliver such property to the treasurer.

(e) Notwithstanding any provision of this section to the contrary, contents removed from any safe deposit box, safekeeping repository or agency, or collateral deposit box described in § 66-29-109, except for military medals, must be sold or disposed of by the holder in accordance with § 45-2-907, or pursuant to instructions received from the treasurer, and the proceeds, less reasonable costs of sale and storage, must be remitted to the treasurer within sixty (60) days of sale. Military medals must be retained, and reported and delivered to the treasurer, in accordance with § 66-29-109(b).

(f) If property reported to the treasurer under § 66-29-123 is a security, the treasurer may:

(1) Make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or
(2) Dispose of the security under § 66-29-142.

(g) If the holder of property reported to the treasurer under § 66-29-123 is the issuer of a certificated security, the treasurer may obtain a replacement certificate in physical or book-entry form in the manner in which an owner may obtain a replacement certificate under § 47-8-405. An indemnity bond is not required.

(h) The treasurer shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the treasurer by a holder.

(i) An issuer, holder, or transfer agent, or other person acting under the instructions of, and on behalf of, the issuer or holder under this section, who delivers abandoned property to the treasurer under this part is relieved of all liability to the extent of the value of the property delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(j) A holder is not required to deliver to the treasurer a security identified by the holder as a non-freely transferable security. Upon determination by the treasurer or the holder that a security is no longer a non-freely transferable security, the security must be subsequently remitted on the next regular date prescribed for delivery of securities under this part. The holder shall make a determination annually whether a security identified in a report filed under § 66-29-123 as a non-freely transferable security is no longer a non-freely transferable security.
(k)(1) Notwithstanding this part, United States savings bonds that are unclaimed and presumptively abandoned under this part shall escheat to the state at the time of the presumed abandonment, and all property rights to such United States savings bonds or proceeds from such bonds shall thereupon vest solely in the state.

(2) Within one hundred eighty (180) days after the bonds and obligations thereunder have been reported by a holder pursuant to § 66-29-123, if no claim has been filed in accordance with this part for such United States bonds and obligations, the treasurer shall commence a civil action in the chancery court of Davidson County to determine whether such United States savings bonds shall escheat to the state. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(3) The summons and complaint must name the last known owner as the defendant, and must be served and filed as provided by law. At the time of the filing of the summons and complaint, the treasurer shall mail to the last known address of the owner a notice entitled “Notice of Proceedings to Confirm Certain United States Savings Bonds as Escheated to the State of Tennessee,” which must include the following information:

   (A) The name and last known address of the owner, if previously reported;
   (B) A statement identifying the action and stating that its purpose is to confirm escheat of the property to the state;
   (C) The place, time, and date of the hearing; and
   (D) A direction that any person claiming to be entitled to such United States savings bonds may claim the property before or at the hearing.

(4) At the time the action is commenced, the treasurer, as to all items having a value in excess of fifty dollars ($50.00), shall also cause the notice provided in subdivision (k)(3) to be published once each week for two (2) consecutive weeks in a newspaper having general circulation in the county in which the last known address of the owner is located, according to the records on file with the treasurer. If no address is available, the notice must be published in such time, place, and manner as, in the treasurer's judgment, is most likely to notify the owner of the proceedings.

(5) If no person files a claim or appears at the hearing to substantiate a claim, or if the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with this section, shall enter a judgment confirming that the subject United States savings bonds have escheated to the state.

(6) The treasurer shall redeem such United States savings bonds escheated to the state and the proceeds from such redemption must be deposited in accordance with § 66-29-146.

(7) Any person making a claim for United States savings bonds escheated to the state under this subsection (k), or for the proceeds from such bonds, may file a claim in accordance with § 66-29-152. Upon receiving sufficient proof of the validity of such person's claim, the treasurer may pay such claim in accordance with § 66-29-153.
66-29-135. Effect of payment or delivery of property to treasurer.

On payment or delivery of property to the treasurer under this part, the treasurer, as agent for the state, assumes custody and responsibility for the safekeeping of the property. A holder that pays or delivers property to the treasurer in good faith and who has complied with §§ 66-29-128 and 66-29-129 is relieved of liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise with respect to the property and is indemnified against claims in accordance with this section.

66-29-136. Recovery of property by holder from treasurer.

(a) A holder that pays money to the treasurer under this part may claim reimbursement from the treasurer of the amount paid if the holder:

(1) Paid the money in error; or
(2) After paying the money to the treasurer, paid the money to a person the holder reasonably believed to be entitled to the money.

(b) If a claim for reimbursement under subsection (a) is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder shall submit proof that the instrument was presented and that payment was made to a person the holder reasonably believed to be entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner’s right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the treasurer under subdivision (a)(2), the holder may also submit a claim to recover from the treasurer dividends, interest, or other increments under § 66-29-137 that would have been paid to the owner, if the money had been claimed from the treasurer by the owner to the extent that such dividends, interest, or increments were paid by the holder to the owner.

(d) A holder that delivers property other than money to the treasurer under this part may claim the property in the possession of the treasurer by filing a claim under § 66-29-152 together with evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the treasurer in error.

(e) The treasurer may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

(f) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

(g) Not later than ninety (90) days after receiving a claim from a holder under subsection (a) or (c), the treasurer shall determine whether to approve or deny the claim and notify the holder of the treasurer’s determination.

66-29-137. Income or gain realized or accrued on property.

If property other than money is delivered to the treasurer, the owner is entitled to receive from the treasurer income or gain realized or accrued on the property before the property is sold, including, if applicable, dividends, interest, or other increments. If the property was an interest-bearing demand,
savings, or time deposit, the treasurer shall pay interest annually at the average annual rate paid on funds in the state pooled investment fund established under § 9-4-603. Interest begins to accrue when the property is delivered to the treasurer and ends on the date on which payment is made to the owner.

66-29-138. Treasurer’s options as to custody.

(a) The treasurer may decline to take custody of property reported under § 66-29-123 if the treasurer determines that:
   (1) The property has a value less than the estimated expenses of notice and sale of the property; or
   (2) Taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the treasurer before the property is presumed abandoned under this part if the holder:
   (1) Sends the apparent owner of the property any notice required by § 66-29-128 and provides the treasurer evidence of the holder’s compliance with this subdivision (b)(1);
   (2) Includes with the payment or delivery a report regarding the property in accordance with § 66-29-124; and
   (3) First obtains the treasurer’s consent in a record to accept payment or delivery.

(c) The holder must request the treasurer’s consent under subdivision (b)(3) in a record. If the treasurer fails to respond to the request not later than thirty (30) calendar days after receipt of the request, the treasurer is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

(d) Upon payment or delivery of the property under subsection (b), the property is presumed abandoned.

66-29-139. Disposition of property having no substantial value.

If the treasurer takes custody of property delivered under this part and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the treasurer may return the property to the holder or destroy or otherwise dispose of the property. No action or proceeding may be brought or maintained against the state or any officer thereof for or on account of any action taken by the treasurer pursuant to this part with respect to such property.

66-29-140. Periods of limitation and repose.

(a) Expiration, before, on, or after July 1, 2017, of a period of limitation on an owner’s right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder to file a report or pay or deliver property to the treasurer under this part.

(b) The treasurer shall not commence an action, proceeding, or examination with respect to a duty of a holder under this part more than ten (10) years after the duty arose.
66-29-141. Public sale of property.

(a) Except as otherwise provided in § 66-29-154, not earlier than three (3) years after receipt of property that has been presumed abandoned, the treasurer may sell the property.

(b) A sale under subsection (a) must be preceded by notice to the public of:
   (1) The date of the sale; and
   (2) A reasonable description of the property.

(c) A sale under subsection (a) must be to the highest bidder:
   (1) At a public sale at a location in this state which the treasurer determines to be the most favorable market for the property; or
   (2) On the internet or another forum the treasurer determines is likely to yield the highest net proceeds of sale.

(d) The treasurer may decline the highest bid at a sale under subsection (a) and reoffer the property for sale if the treasurer determines the highest bid is insufficient.

(e) If a sale held under this section is to be conducted other than by electronic means, the treasurer must publish not less than one (1) notice of the sale at least three (3) weeks, but not more than five (5) weeks, before the sale, in a newspaper of general circulation in the county in which the property is to be sold.

66-29-142. Disposal of securities.

(a) The treasurer shall sell or otherwise liquidate a security no sooner than eight (8) months, but no later than one (1) year, after receiving the security and giving the apparent owner notice under § 66-29-130(b)(1) and (2) that the treasurer holds the security.

(b) The treasurer shall not sell a security listed on an established stock exchange for less than the prevailing price on the exchange at the time of sale. The treasurer may sell a security not listed on an established exchange by any commercially reasonable method.

66-29-143. [Reserved.]

66-29-144. Purchaser’s ownership of property.

A purchaser of property at a sale conducted by the treasurer under this part takes the property free of all claims of the owner, a previous holder, or a person making a claim through the owner or holder. The treasurer shall execute documents necessary to complete the transfer of ownership to the purchaser.

66-29-145. Military medal or decoration.

(a) The treasurer, upon receiving military medals, shall hold and maintain the military medals until the original owner or the owner’s respective heirs or beneficiaries can be identified and the military medal returned.

(b) The treasurer shall not sell a military medal.

(c) The treasurer, with the consent of the respective organization under subdivision (c)(1), agency under subdivision (c)(2), or entity under subdivision (c)(3), may deliver a military medal held under subsection (a) to be held in custody for the owner, to:
   (1) A military veteran’s organization qualified under 26 U.S.C.
§ 501(c)(19);

(2) The agency that awarded the medal or decoration; or

(3) A governmental entity.

(d) Upon delivery under subsection (c), the treasurer is no longer responsible for safekeeping the medal or decoration.

66-29-146. Disposal of funds by treasurer.

(a) Except as otherwise provided in this section, the treasurer shall deposit in the general fund of the state all funds received under this part, including proceeds from the sale of property under this part.

(b) The treasurer shall maintain an account with an amount of funds the treasurer reasonably estimates to be sufficient to pay claims allowed under, and the costs of administering, this part for each fiscal year. If the treasurer determines that the amount of claims and administrative costs during a fiscal year exceeds the amount of funds received during such fiscal year, a sum sufficient must be appropriated from the general funds of the state to the treasurer for the payment of such claims and costs.

(c) For funds received under this part for the report year ending December 31, 2016, and for each report year thereafter, the treasurer shall determine each June 30 the amount of such funds remitted by or on behalf of each local government of the state and its agencies which have remained unclaimed for a minimum of eighteen (18) months following their delivery to the treasurer. If the aggregate unclaimed balance exceeds one hundred dollars ($100), the treasurer shall, upon request of the local government, pay an amount equal to the aggregate unclaimed balance, less a proportionate share of the cost of administering the program, as determined by the treasurer, to the local government, together with a report of the accounts represented by the funds. The funds must be placed in the local government’s general fund, except the local government shall maintain, to the extent necessary, a sufficient amount of the total unclaimed property accounts to ensure prompt payment.

(d) For funds received under this part for the report year ending December 31, 2016, and for each report year thereafter, the treasurer shall determine each June 30 the amount of such funds remitted by or on behalf of each cooperative, as that term is defined in § 65-25-102, that have remained unclaimed for a minimum of eighteen (18) months following the delivery of the cooperative’s funds to the treasurer. If the aggregate unclaimed balance exceeds one hundred dollars ($100), the treasurer, upon request of the cooperative, shall pay an amount equal to the aggregate unclaimed balance, less a proportionate share of the cost of administering the program, as determined by the treasurer, to the cooperative, together with a report of the accounts represented by the funds. The funds must be placed in the cooperative’s general fund, except the cooperative shall maintain, to the extent necessary, a sufficient amount of the total unclaimed property accounts to ensure prompt payment.

66-29-147. Retention of records by treasurer.

The treasurer shall:

(1) Record and retain the name and last known address of each person shown on a report filed under § 66-29-123 to be the apparent owner of the property delivered to the treasurer;
(2) Record and retain the name and last known address of each insured or annuitant, and beneficiary, shown on the report;

(3) With respect to each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and

(4) With respect to each apparent owner listed in the report, record and retain the name of the holder who filed the report and the amount due or paid.

66-29-148. Deduction of administrative costs before deposit of funds.

Before making a deposit of funds received under this part to the general fund of the state, the treasurer may deduct administrative costs, including, but not limited to:

(1) Expenses of custody and disposition of abandoned property;

(2) Costs of mailing, publication, and any other outreach efforts in connection with abandoned property;

(3) Reasonable service charges; and

(4) Expenses incurred in examining records of a putative holder of property and collecting property from a putative holder determined by the treasurer to hold property required to be delivered to the treasurer under this part.

66-29-149. Treasurer as custodian of property for owner.

Property received by the treasurer under this part is held in custody for the benefit of the owner and is not owned by the state.

66-29-150. Superior claim of another state.

(a) If the treasurer knows that property held by the treasurer under this part is subject to a superior claim of another state, the treasurer shall:

(1) Report, and pay or deliver, the property to the other state; or

(2) Return the property to the holder so that the holder may pay or deliver the property to the other state.

(b) The treasurer is not required to enter into a formal agreement to transfer the property to another state under subsection (a).

66-29-151. When property subject to recovery by another state.

(a) Property held by the treasurer under this part is subject to the right of another state to take custody of the property if:

(1) The property was paid or delivered to the treasurer because the records of the holder did not reflect a last known address of the apparent owner in another state, and:

(A) That state establishes that the last known address of the apparent owner or other person entitled to the property was in that state; or

(B) Under the law of that state, the property has become subject to a claim of abandonment by that state;

(2) The records of the holder did not accurately identify the apparent owner of the property, the last known address of the owner was in another state, and, under the law of that state, the property has become subject to a claim of abandonment in that state;
(3) The property was subject to the custody of the treasurer of this state under § 66-29-119 and, under the law of the state of domicile of the holder, the property has become subject to a claim of abandonment by the state of domicile of the holder; or

(4) The property:
   (A) Is a sum payable on a traveler’s check, money order, or similar instrument that was purchased in another state and delivered to the treasurer under § 66-29-120; and
   (B) Under the law of that state, has become subject to a claim of abandonment in that state.

(b) A claim by another state to recover property under this section must be presented in a form prescribed by the treasurer unless the treasurer waives presentation of the form.

(c) The treasurer shall decide whether a claim under this section is valid not later than ninety (90) days after it is presented. If the treasurer determines that another state is entitled under subsection (a) to custody of the property, the treasurer shall approve the claim and pay or deliver the property to that state.

(d) The treasurer may require another state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim to property.

66-29-152. Claim of property by person claiming to be owner.

(a) A person claiming to be the owner of property held by the treasurer may file a claim for the property in the format prescribed by the treasurer. The claimant shall verify the claim as to its completeness and accuracy.

(b) The treasurer may waive the requirement in subsection (a) to file a claim and pay or deliver property directly to an agency, local government, public institution of higher education, or local education agency, of this state if:
   (1) The entity receiving the property or payment is shown to be the same entity as the apparent owner included on a report filed under § 66-29-123; and
   (2) The treasurer reasonably believes the entity is entitled to receive the property or payment.

66-29-153. Approval or denial of claim.

(a) The treasurer shall pay or deliver property to a claimant under § 66-29-152:
   (1) If the treasurer receives evidence sufficient to establish to the reasonable satisfaction of the treasurer that the claimant is the owner of the property; or
   (2) Upon order of a court in accordance with § 66-29-155.

(b) Not later than ninety (90) days after a claim is filed under § 66-29-152, the treasurer shall approve or deny the claim and give the claimant notice of the decision in a record. If the claim is denied:
   (1) The treasurer shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be approved;
   (2) The claimant may file an amended claim with the treasurer or commence an action under § 66-29-155; and
The treasurer shall treat an amended claim as an initial claim filed under § 66-29-152.

66-29-154. Payment or delivery of property or proceeds of sale of property — Claim for debt owed by owner to state.

(a) Not later than thirty (30) days after a claim is approved by the treasurer under § 66-29-153, the treasurer shall pay or deliver to the owner the property or the net proceeds from a sale of the property, together with dividends, interest, or other increments to which the owner is entitled under § 66-29-137. On request of the owner, the treasurer may sell or liquidate a security and pay the net proceeds to the owner, regardless of whether the security has been held by the treasurer for less than eight (8) months or the treasurer has not complied with the notice requirements under § 66-29-142.

(b) Property held by the treasurer is subject to a claim for the payment of an enforceable debt that the owner owes in this state for:
   (1) Child support arrearages, including child support collection costs and child support arrearages that are combined with amounts for maintenance;
   (2) A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or court; or
   (3) State and local taxes, penalties, and interest that have been determined to be delinquent, or for which notice has been recorded with the applicable taxing authority.

(c) The treasurer may make periodic inquiries with state and local agencies in the absence of a claim filed under § 66-29-152 to determine whether apparent owners included in the unclaimed property records of this state have enforceable debts described in subsection (b). The treasurer shall apply the property or net proceeds from a sale of property held by the treasurer to a debt under subsection (b) that the treasurer has determined is owed by the owner. The treasurer shall notify the apparent owner of the payment.

(d) Before delivery or payment to an owner under subsection (a) of property or net proceeds from a sale of property, the treasurer shall apply the property or net proceeds to a debt under subsection (b) that the treasurer has determined is owed by the owner. The treasurer shall pay the amount to the appropriate state or local agency and notify the owner of the payment.

66-29-155. Action by person whose claim is denied or not acted upon.

Not later than one (1) year after filing a claim with the treasurer under § 66-29-152, the claimant may commence an action against the treasurer in the chancery court for Davidson County to appeal a claim that has been denied or upon which the treasurer has not acted. A copy of the complaint must be served on the treasurer and the attorney general and reporter. The suit must be tried without a jury. If the chancery court rules against the treasurer, the treasurer shall make payment in accordance with § 66-29-153. Any aggrieved party may appeal the decision.

66-29-156. Verified report of property.

If a person does not file a report required by § 66-29-123, or the treasurer believes that a person may have filed an inaccurate, incomplete, or false report, the treasurer may require the person to file a verified report on a form
prescribed by the treasurer. The report must:

(1) State whether the person is holding property reportable under this part;
(2) Describe property not previously reported or about which the treasurer has enquired; and
(3) Specifically identify property described under subdivision (2) for which there is a dispute as to whether it is reportable under this part and state the amount or value of the property.

66-29-157. Examination of records to determine compliance--Administrative subpoena.

The treasurer, at reasonable times and upon providing reasonable notice, may:

(1) Examine the records of a person to determine whether the person has complied with this part, including appropriate records in the possession of an agent of the person under examination, if such records are reasonably necessary to determine whether the person under examination has complied with this part;
(2) Issue an administrative subpoena requiring a person or an agent of the person to make records available for examination; and
(3) Bring an action seeking judicial enforcement of the subpoena.

66-29-158. Rules for conducting examination.

(a) The treasurer shall prescribe by rule procedures and standards for an examination under § 66-29-157, including procedures and standards for the use of an estimation, extrapolation, and statistical sampling during an examination.

(b) An examination under § 66-29-157 must be performed in accordance with procedures and standards adopted by rule under subsection (a) and with generally accepted examination procedures and standards applicable to unclaimed property examinations.

(c) If a person subject to examination under § 66-29-157 has filed all reports required by § 66-29-123 and has retained the records required by § 66-29-126, the following provisions apply:

(1) The examination must include a review of the person’s records;
(2) The examination must not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and
(3) The person conducting the examination shall consider all evidence presented by the person in good faith in preparing a report of the examination under § 66-29-162.

66-29-159. Confidentiality of records obtained during examination.

(a) Records obtained in the course of conducting an examination under § 66-29-157, including work papers compiled by the treasurer or the treasurer’s agents, employees, or designated representatives, and any information that identifies the fact that a particular person, institution, business, or entity was or is the subject of an examination under § 66-29-157, are confidential and are not public records; provided, that the records and information are not confidential:
(1) To the extent that the person, institution, business, or entity that was
or is the subject of the examination consents to disclosure;
(2) To the extent that the treasurer, or the treasurer’s employees, agents,
or representatives use the records for the purpose of administering this part;
(3) If used for the purposes of complying with a subpoena or a court order;
(4) In joint unclaimed property examinations or audits conducted by the
treasurer with, or pursuant to, an agreement with another state, federal
agency, or any other governmental subdivision, agency, or instrumentality;
(5) To the extent that the comptroller of the treasury or the comptroller’s
designees use the records for the purpose of an audit; or
(6) In the course of any action or proceeding by the treasurer or the
treasurer’s employees, agents, or representatives to collect unclaimed prop-
erty, to collect any unpaid interest due on unclaimed property, or to
otherwise enforce this part.
(b) As used in this section, “work papers” means those records created to
serve as an input for final reporting documents.
(c) All final reports submitted to the treasurer pursuant to § 66-29-123 are
records open to the public, including the identity of any holder that submits a
report; provided, that any information included in a final report that identifies
the fact that a holder was the subject of an audit conducted under this part
must be redacted prior to disclosure unless the disclosure falls within one (1)
of the exceptions under subsection (a).
(d) The treasurer has the sole discretion to implement disciplinary actions
against any employee, agent, or representative of the treasurer who intention-
ally discloses records that are deemed confidential under this section, includ-
ing, but not limited to, terminating a contract with any vendor that violates
this section.

66-29-160. Evidence of unpaid debt or undischarged obligation.

(a) A record of a putative holder showing an unpaid debt or undischarged
obligation is prima facie evidence of the debt or obligation.
(b) A putative holder may establish by a preponderance of the evidence that
there is no unpaid debt or undischarged obligation with respect to such debt or
obligation or that the debt or obligation was not, or no longer is, a fixed and
certain obligation of the putative holder.
(c) A putative holder may overcome prima facie evidence under subsection
(a) by establishing by a preponderance of the evidence that a check, draft, or
similar instrument was:
   (1) Issued as an unaccepted offer in settlement of an unliquidated
amount;
   (2) Issued but later replaced with another instrument because the earlier
instrument was lost or contained errors that were corrected;
   (3) Issued to a party affiliated with the issuer;
   (4) Paid, satisfied, or discharged;
   (5) Issued in error;
   (6) Issued without consideration;
   (7) Voided within a reasonable time after issuance for a valid business
reason set forth in a contemporaneous record; or
   (8) Issued but not delivered to the third-party payee for a sufficient reason
recorded within a reasonable time after issuance.
(d) In asserting a defense under this section, a putative holder may present...
evidence of a course of dealing or custom and practice between the putative holder and the apparent owner.

66-29-161. Failure of person examined to retain records.

If a person subject to examination under § 66-29-157 does not retain the records required by § 66-29-126, the treasurer may determine the amount of property due using a reasonable method of estimation based on all information available to the treasurer, including extrapolation and the use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under § 66-29-158.

66-29-162. Report to person whose records were examined.

At the conclusion of an examination under § 66-29-157, unless waived in writing by the person being examined, the treasurer shall provide to the person whose records were examined a complete and unredacted examination report, which must identify in detail:

1. The work performed;
2. The property types reviewed;
3. The methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
4. Each calculation showing the value of property determined to be due; and
5. The findings of the person conducting the examination.

66-29-163. Request for intervention — Conference.

(a) If a person subject to examination under § 66-29-157 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the treasurer to intervene and take remedial action as the circumstances may require, including countermanding the request of the person conducting the examination, imposing a time limit for completion of the examination, or reassigning the examination to another person.

(b) If a person in a record requests a conference with the treasurer to present matters that are the basis of a request for intervention under subsection (a), the treasurer shall hold the conference not later than thirty (30) days after receiving the request. The treasurer may hold the conference in person, by telephone, or by electronic means. The treasurer may designate an employee of the treasurer to hold the conference under this subsection (b).

(c) If a conference is held under subsection (b), the treasurer, or the treasurer's designee, shall provide a report in a record of the conference to the person that requested the conference not later than thirty (30) days after the conference.

66-29-164. Treasurer's contract with another to conduct examination.

(a) The treasurer may contract with a person to conduct an examination under this part. The treasurer shall make any contract entered into under this section available for public inspection during normal business hours.

(b) Not less than sixty (60) days before contracting with a person to conduct an examination for the treasurer under subsection (a), the treasurer shall give the person to be examined a demand in a record to submit a report and deliver
property that is subject to this part.

(c) On request by a person subject to examination by a contractor, the treasurer shall deliver to the person a complete unredacted copy of the contract between the treasurer and the contractor relating to the examination and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(d)(1) It is hereby declared unlawful for the treasurer, or an individual employed by the treasurer who participates in, recommends, or approves the award of a contract under this section, to bid on, procure, or have any interest in a contract to conduct an examination under this section during the tenure of the treasurer's or employee's office or employment, and for six (6) months thereafter.

(2) A person violating subsection (a) is liable to the state for any and all sums paid out by the state, together with interest at the rate of eight percent (8%) per annum, growing out of any such transaction.

(3) A violation of subdivision (d)(1) is a Class E felony.

66-29-165. Report by treasurer.

(a) Not later than four (4) months after the end of a fiscal year, the treasurer shall compile and submit a report to the governor, comptroller of the treasury, speaker of the senate, and speaker of the house of representatives which must contain the following information for the immediately preceding fiscal year:

(1) The total amount and value of all property paid or delivered to the treasurer under this part, separated into:
   (A) The amount voluntarily paid or delivered; and
   (B) The amount paid or delivered as a result of an examination under § 66-29-157, which amount must be separated into the amount recovered as a result of an examination conducted by:
      (i) A state employee; and
      (ii) A person under contract under § 66-29-164;
   (2) The name and amount paid to each contractor under § 66-29-164 and the percentage the total compensation paid to all contractors under § 66-29-164 bears to the total value of all property paid or delivered to the treasurer as a result of examinations;
   (3) The total amount and value of all property paid or delivered by the treasurer to persons that made claims for property held by the treasurer and the percentage the total payments made, or value of property paid or delivered, to claimants bears to the total value of property paid or delivered to the treasurer; and
   (4) The total amount of:
      (A) Claims made by persons claiming to be owners which were denied;
      (B) Claims made by persons claiming to be owners which were approved; and
      (C) Funds received and the value of property held by the treasurer subject to claims of owners.
(b) The report submitted by the treasurer under subsection (a) is a public record subject to public disclosure without redaction under title 10, chapter 7, part 5.
66-29-166. Determination of liability for failure or refusal to pay or deliver property to treasurer.

If the treasurer determines from an examination conducted under § 66-29-157 that a putative holder has failed or refused to pay or deliver property to the treasurer which is reportable under this part, the treasurer shall issue a determination of the putative holder's liability with respect to the payment or delivery of property, and provide to the putative holder notice in a record of the determination.

66-29-167. Informal conference to review determination of liability.

(a) Not later than thirty (30) days after receipt of a notice of determination of liability under § 66-29-166 a putative holder may request an informal conference with the treasurer to review the determination. The treasurer may designate an employee to act on behalf of the treasurer for all purposes of this section.

(b) If a putative holder makes a timely request under subsection (a) for an informal conference:

(1) The treasurer shall set a place and time for the conference not later than twenty (20) days after the date of the request, unless the putative holder and the treasurer mutually agree upon a later date;

(2) The treasurer shall give the putative holder notice of the time and place of the conference;

(3) The conference may be held in person, by telephone, or by electronic means, as determined by the treasurer;

(4) The conference may be postponed, adjourned, and reconvened as the treasurer determines appropriate;

(5) The treasurer, or the treasurer's designee with the approval of the treasurer, may modify a determination made under § 66-29-166 in part or withdraw it in its entirety; and

(6) The treasurer shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than twenty (20) days after the conference ends unless the putative holder and the treasurer mutually agree to continue the conference.

(c) A conference under subsection (b) is not an administrative remedy and is not a contested case subject to title 4, chapter 5. An oath is not required and rules of evidence do not apply in the conference.

(d) At a conference under subsection (b), the putative holder must be given an opportunity to confer informally with the treasurer and the person who examined the records of the putative holder to:

(1) Discuss the determination made under § 66-29-166; and

(2) Present any issue the putative holder wishes to raise concerning the validity of the determination.

(e) If the treasurer fails to act within a period prescribed in subsection (b), the failure does not affect a right of the treasurer, except that interest does not accrue on the amount for which the holder was determined to be liable under § 66-29-166 during the period in which the treasurer failed to act until the earlier of:

(1) The date the putative holder files an action under § 66-29-169; or

(2) If no action is filed under § 66-29-169, the conclusion of the ninety-day
period for filing an action under § 66-29-169.

(f) The treasurer may hold an informal conference with the putative holder without a request at any time before a putative holder files suit under § 66-29-169.

(g) Penalties under § 66-29-173 and § 66-29-174 continue to accrue for property not reported, paid, or delivered as required by this part following the initiation and during the pendency of an informal conference under this section.


A putative holder may seek relief from a determination under § 66-29-166 by seeking judicial review of the determination under § 66-29-169.

66-29-169. Action against treasurer.

(a) Not later than ninety (90) days after receiving notice of the treasurer's determination under § 66-29-166, the putative holder may:

(1) File an action against the treasurer in the chancery court for Davidson County challenging all or part of the treasurer’s determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) Pay or deliver the property to the treasurer and, not later than six (6) months after payment or delivery, initiate an action against the treasurer in the chancery court for Davidson County for a refund of all or part of the amount paid or a return of all or part of the property delivered.

(b) If a putative holder pays or delivers the property to the treasurer at any time after the putative holder files an action under subdivision (a)(1), the court must continue the action as if it had been filed originally as an action for a refund or return of property under subdivision (a)(2).

(c) A putative holder that is the prevailing party in an action under subsection (a) for a refund of money paid to the treasurer is entitled to interest on the amount refunded, at the same rate of interest a holder is required to pay to the treasurer under § 66-29-137, from the date paid to the treasurer until the date of the refund.

66-29-170. Action to enforce determination and secure payment or delivery.

(a) When a determination under § 66-29-166 becomes final, and after the period for filing an action under § 66-29-169, the treasurer may commence an action in the chancery court for Davidson County or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.

(b) In an action under subsection (a), if no court in this state has jurisdiction over the defendant, the treasurer may commence an action in a federal or state court of competent jurisdiction.

66-29-171. Cooperation with another state or foreign country.

The treasurer may:

(1) Securely exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible exis-
tence of property presumed abandoned; and

(2) Authorize in a record another state or foreign country, or a person acting on behalf of another state or country, to examine its records of a putative holder; provided, that the state, country, or person agrees to abide by the provisions of § 66-29-159.

66-29-172. Action involving another state or foreign country.

(a) The treasurer, with the approval of the attorney general and reporter, may join other states or foreign countries to examine and seek enforcement of this part against any person believed to be holding property reportable under this part.

(b) On request of another state or foreign country, the attorney general and reporter may commence an action on behalf of such state or country to enforce, in this state, the law of such state or country against a putative holder of property presumed abandoned and subject to a claim by the other state or country; provided, that such state or country agrees to pay the costs incurred by the attorney general and reporter in the action.

(c) The treasurer, with approval of the attorney general and reporter, may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in such state or country on behalf of the treasurer. This state shall pay all costs, including reasonable attorney's fees and expenses, incurred by such state or country in an action under this subsection (c).

(d) The treasurer, with approval of the attorney general and reporter, may pursue an action on behalf of this state to recover property subject to this part that is delivered into the custody of another state if the treasurer believes the property is subject to the custody of the treasurer.

(e) The treasurer, with approval of the attorney general and reporter, may retain a private attorney in this state or another state or foreign country to commence an action to recover property on behalf of the treasurer and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by this state in an action under this section may be paid from property received under this part or net proceeds from the property. Expenses incurred to recover property must not be deducted from the amount that is subject to a claim under this part by the owner.

66-29-173. Civil penalty for failure to report, pay, or deliver property within prescribed time.

Except as otherwise provided in §§ 66-29-174 and 66-29-175, the treasurer may assess against a holder who fails to report, pay, or deliver property within the time prescribed by this part a civil penalty of two hundred dollars ($200) for each day the duty is not performed, up to a cumulative maximum amount of five thousand dollars ($5,000).

66-29-174. Civil penalty for evasion or failure to perform duty — Civil penalty for making fraudulent report.

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this part, or otherwise willfully fails to perform a
duty imposed on the holder under this part, the treasurer may assess against
the holder a civil penalty of one thousand dollars ($1,000) for each day the
obligation is evaded or the duty is not performed, up to a cumulative maximum
amount of twenty-five thousand dollars ($25,000), plus an additional twenty-
five percent (25%) of the amount or value of any property for which the holder
had a duty or obligation to report, pay, or deliver under this part.

(b) If a holder makes a fraudulent report under this part, the treasurer may
assess against the holder a civil penalty of one thousand dollars ($1,000) for
each day from the date the fraudulent report was filed until a true and correct
report is filed, up to a cumulative maximum of twenty-five thousand dollars
($25,000), plus an additional twenty-five percent (25%) of the amount or value
of any property for which the holder had duty to report.

66-29-175. Waiver of civil penalty.

The treasurer has the authority to not assess or to waive any penalty under
§ 66-29-173 or § 66-29-174.

66-29-176. Enforceability of agreement to locate property.

(a) An agreement with an owner whereby the owner is to pay a fee or other
remuneration for locating, delivering, recovering, or assisting in the recovery
of property that has not yet been reported to the treasurer under this part is
enforceable only if the agreement:
   (1) Is in writing;
   (2) Clearly sets forth the nature of the property and the services to be
       rendered;
   (3) Is signed by the apparent owner;
   (4) States the value of the property before and after the fee; and
   (5) Contains such other information as the state treasurer may, by rule,
       require.

(b) An agreement by an apparent owner and a person, the primary purpose
of which is to locate, deliver, recover, or assist in the location, delivery, or
recovery of property held by the treasurer, is enforceable only if the agreement:
   (1) Is in a record that clearly sets forth the nature of the property and the
       services to be provided;
   (2) Is signed by or on behalf of the apparent owner;
   (3) States the amount or value of the property reasonably estimated or
       expected to be recovered, computed both before and after a fee or other
       compensation to be paid to the other person has been deducted;
   (4) Does not provide for compensation of more than ten percent (10%) of
       the value of the recoverable property or fifty dollars ($50.00), whichever is
       greater; and
   (5) Contains such other information as the state treasurer may, by rule,
       require.

(c) An agreement under this section is void and unenforceable if it is entered
into within two (2) years from the date on which the property was paid or
delivered by the holder to the treasurer.

(d) If a provision in an agreement described in this section applies to
mineral proceeds for which compensation must be paid to a person based in
whole or in part on a portion of the underlying minerals or mineral proceeds
not then presumed abandoned, the provision is void and unenforceable,
regardless of when the agreement is executed.

(e) This section does not apply to an apparent owner’s agreement with an attorney to pursue a claim for recovery of specifically identified property held by the treasurer or to contest the treasurer’s denial of a claim for recovery of the property.

66-29-177. Apparent owner’s agent.

(a) An apparent owner that contracts with a person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the treasurer may appoint or designate the person as the apparent owner’s agent. The appointment or designation must be in a record signed by the apparent owner and delivered to the treasurer.

(b) An apparent owner’s agent is entitled to receive from the treasurer all information concerning the property which the apparent owner would be entitled to receive, including information that would otherwise be confidential information under § 66-29-178.

(c) If authorized by the apparent owner, the apparent owner’s agent may bring an action against the treasurer on behalf of, and in the name of, the apparent owner.


(a) Information that is confidential under any law of this state other than this part, another state, or the United States, including personally identifying information, as that term is defined in § 10-7-504(a)(29)(C), and personal information, as that term is defined in § 47-18-2107, continues to be confidential when disclosed or delivered under this part to the treasurer or the treasurer’s agent; provided, that information that would otherwise be confidential, if for good cause and reasonably necessary for the enforcement or implementation of this part, may be disclosed by the treasurer or the treasurer’s agent to:

(1) An apparent owner or the apparent owner’s personal representative or attorney, next of kin, or agent designated under § 66-29-177;
(2) A deceased apparent owner’s personal representative or attorney, next of kin, agent designated under § 66-29-177, or heir;
(3) Another department or agency of this state or the United States;
(4) The person who administers the unclaimed property law of another state, if the state accords substantially reciprocal privileges to the treasurer and the state agrees to maintain the confidentiality and security of the information in the same manner as the treasurer; and
(5) A person who is the subject of an examination in an administrative or judicial proceeding relating to the property.

(b) The treasurer and the treasurer’s agent shall not use confidential information provided to them or in their possession for any purpose except as expressly authorized by this part or required by any other law of this state.

(c) Except as otherwise provided in subsection (a), the treasurer shall include on a website or in a database as required by § 66-29-130(b)(4) the name of each apparent owner of property held by the treasurer. The treasurer may include on the website or in the database additional information concerning the apparent owner’s property if the treasurer believes the information will assist in facilitating identification and return of the property to the owner, and
the treasurer does not disclose personally identifying information other than the home or physical address of an apparent owner.

66-29-179. Confidentiality agreement.

A person to be examined under § 66-29-157 may require, as a condition of disclosing the person's records, that the treasurer or the treasurer's agent who has access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

1. Is in a form that is reasonably satisfactory to the treasurer; and
2. Requires the person to comply with the provisions of this part applicable to the person.

66-29-180. Inclusion of confidential information in notice not required.

A holder is not required under this part to include confidential information in a notice the holder is required to provide to an apparent owner under this part.

66-29-181. Maintenance of confidential information in secure manner.

(a) If a holder is required to include confidential information in a report to the treasurer, the information must be provided in a secure manner.
(b) If confidential information in a record is provided to and maintained by the treasurer and the treasurer's agent as required by this part, the treasurer and the treasurer's agent shall:
   1. Implement administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of the information as required by state and federal law; and
   2. Protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information, and against unauthorized access to or use of the information for the purpose of preventing substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, policy or contract owners, and beneficiaries.
(c) The treasurer shall:
   1. Maintain confidential information held pursuant to this part in accordance with security and confidentiality policies prescribed by rule of the department of treasury; and
   2. Require that the treasurer's agent maintain confidential information held pursuant to this part in a secure manner.
(d) The treasurer or the treasurer's agent shall comply, and shall cooperate with a holder, if applicable, in complying with the requirements of § 47-18-2107 regarding the unauthorized acquisition of computerized data.

66-29-182. Uniformity of application and construction.

In applying and construing this part, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Except as otherwise provided in this section, this part modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.). This part does not modify, limit, or supersedes Section 101(c) of the Act (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in Section 103(b) of the Act (15 U.S.C. § 7003(b)).

66-29-184. Transitional provision.

(a) An initial report filed under this part for property that was not required to be reported before July 1, 2017, but that is required to be reported under this part after July 1, 2017, must include all items of property that would have been presumed abandoned during the ten-year period immediately preceding July 1, 2017, as if this chapter had been in effect during that period.

(b) This part does not relieve a holder of a duty that arose before July 1, 2017, to report, pay, or deliver property under any provision of law in effect before July 1, 2017. Except as otherwise provided in § 66-29-140, a holder who did not comply with the law governing unclaimed property before July 1, 2017, is subject to applicable provisions for enforcement and penalties in effect before July 1, 2017.

(c) Interest on interest-bearing property is not payable for any period before July 1, 2017, unless authorized by a provision of law superseded by this part.

66-29-204. Exclusivity of provisions.

This part shall control the procedure and disposition of any property to which it applies in lieu of any other procedure prescribed by law including the Uniform Unclaimed Property Act, compiled in part 1 of this chapter.

66-31-105. Enforcement of lien.

The enforcement of the owner’s lien against an occupant who is in default may be done in accordance with either or both of the following procedures:

1) In the case of short term default, denial of access:
   (A) Upon the failure of an occupant to pay the rent for the storage space or unit when it becomes due, the owner may, without notice, deny the occupant access to the personal property located in the self-service storage facility or self-contained storage unit, and the owner without notice, not less than five (5) days after the date the rent is due, may enter and remove the personal property from the leased space to other suitable storage space pending its sale or other disposition; and
   (B) The owner shall notify the occupant of the owner’s intent to enforce the owner’s lien by written notice delivered by hand delivery, by verified mail, or by electronic mail to the occupant’s last known address; or
2) In the case of long term default, which is a continuous fifteen (15) days, the owner may enforce the owner’s lien in accordance with the following procedures:
   (A) The occupant shall be notified in writing;
   (B) The notice shall be delivered by hand delivery, by verified mail, or by electronic mail to the occupant’s last known address;
(C) The notice shall include:

(i) An itemized statement of the owner’s claim showing the sum due at the time of the notice and the date when the sum became due;

(ii) A demand for payment of the sum due within a specified time not less than thirty (30) days after the date of the notice and a statement of the approximate additional expenses which may be incurred between the date of the notice and the date of the sale;

(iii) A statement that the contents of the occupant’s leased space are subject to the owner’s lien;

(iv) If the owner elects to deny the occupant access to the leased space or elects to enter and/or remove the occupant’s personal property from the leased space to other suitable storage space, a statement so advising the occupant shall be included in the notice;

(v) The name, street address and telephone number of the owner or designated agent whom the occupant may contact to respond to the notice; and

(vi) A conspicuous statement that unless the claim is paid within the time stated, the personal property will be advertised for sale or will be otherwise disposed of at a specified time and place, not sooner than sixty (60) days after default;

(D) Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section. If the personal property is advertised for sale and the sale is not consummated, the owner shall give written notice to the occupant of other disposition of the personal property;

(E) Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored;

(F) After expiration of the time stated in the notice and if the personal property has not otherwise been disposed, the owner shall advertise the sale of the personal property. Such advertisement of sale shall include, but not be limited to, the publishing one (1) time before the date of the sale of the personal property in a newspaper of general circulation which serves the area where the self storage facility is located. The advertisement shall include:

(i) A statement that the contents of the occupant’s leased space shall be sold to satisfy the owner’s lien;

(ii) The address of the self-service storage facility and the number or other description, if any, of the space where the personal property is located and the name of the occupant; and

(iii) The time, place, and manner of the sale;

(G) Before any sale or other disposition of personal property pursuant to this section, the occupant may pay the amount necessary to satisfy the owner’s lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon the payment and satisfaction of the amount necessary to satisfy the lien, the owner shall return the personal property and thereafter the owner shall have no liability to any person with respect to such personal property;

(H) The owner may buy at any sale of personal property to enforce the owner’s lien;
(I) A purchaser in good faith of the personal property sold to satisfy the owner’s lien takes the property free of any rights of persons against whom the lien was valid, despite noncompliance by the owner with the requirements of this section;

(J) In the event of a sale under this section, the owner may satisfy the owner’s lien and the expenses of such sale from the proceeds of the sale but shall hold the balance, if any, for delivery on demand to the occupant. If the occupant does not claim the balance of the proceeds within one (1) year of the date of the sale, such balance shall be deemed to be abandoned, and the owner shall pay such balance to the state treasurer who shall receive, hold and dispose of same in accordance with the Uniform Unclaimed Property Act, compiled in chapter 29, part 1 of this title;

(K) If the property upon which the lien is claimed is a vehicle and rent and other charges related to the property remain unpaid or unsatisfied for sixty (60) days after the maturity of the obligation to pay rent, the facility owner may utilize either of the following options:

(i) The facility owner may have the property towed. If a vehicle is towed as authorized in this subdivision (2)(K)(i), the owner shall not be liable for the vehicle or any damages to the vehicle once the tower takes possession of the property; or

(ii) The facility owner shall contact the appropriate division in such manner as the division prescribes for the purposes of determining the existence and identity of any lien holder and the name and address of the owner of the vehicle, as shown in the records of the division. Within ten (10) days of receipt of such information concerning any lien holder and the owner of such motor vehicle, as shown in the division’s records, the owner shall send a written notice to any such lien holder and to the owner, if such owner is not the occupant, by verified mail, stating that:

(a) Such vehicle is being held by the facility owner;

(b) A lien has attached pursuant to this chapter; and

(c) Payment shall be made within thirty (30) days after notification to satisfy the lien. The vehicle owner or lien holder may pay the balance owed and take possession of the vehicle. If the owner or lien holder does not satisfy the lien, the facility owner may sell the vehicle in any manner, including but not limited to, public auction;

(L) The owner’s liability arising from the sale is limited to the net proceeds received from the sale of the personal property;

(M) The owner is not liable for identity theft or other harm resulting from the misuse of information contained in a document or electronic storage media:

(i) That are part of the occupant’s property sold or otherwise disposed; and

(ii) Of which the owner did not have actual knowledge; and

(N) An owner shall not be entitled to any remedies provided by this chapter, including but not limited to, enforcement of a lien against an occupant, if:

(i) The requirements of this section are not satisfied;

(ii) The sale of the personal property located in the leased space is not in conformity with subdivision (2)(F); or

(iii) There is a willful violation of this chapter.

(a) The county legislative body of each county shall, at the April session of each even year, from the different sections of the county, elect, for a term of two (2) years, five (5) freeholders and taxpayers who shall constitute a county board of equalization.

(1) In any county having a population greater than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census, the county board of equalization shall be appointed for a term of two (2) years, consisting of thirteen (13) freeholders and taxpayers, of which three (3) members shall be appointed by the county commission or governing board, four (4) members shall be appointed by the city council or governing board of the largest municipality, and one (1) member each shall be appointed by the city councils or governing boards of each of the six (6) largest remaining cities having a population greater than ten thousand (10,000).

(2) In counties having one (1) or more cities with a population exceeding sixty thousand (60,000), according to the federal census of 1970 or any subsequent federal census, two (2) of the members of the board shall be appointed by the governing body of the largest city.

(3) In counties having one (1) or more cities with a population of not less than ten thousand (10,000) nor more than sixty thousand (60,000), one (1) member of the board shall be appointed by the city council or governing body of each of the two (2) largest cities with a population in excess of ten thousand (10,000), within the county.

(4) In counties that have no city with a population of ten thousand (10,000) or more, one (1) member of the board shall be appointed by the city council or governing board of the largest city or town in the counties.

(5)(A) In a county with a metropolitan form of government, the charter for the metropolitan government may provide for the creation of a metropolitan board of equalization consisting of either five (5) or seven (7) members. Appointments to such board shall include members selected from minorities, as well as members of the sex that historically has been under-represented on the board of equalization. This subdivision (a)(5)(A) shall not apply to such counties having a population of less than ten thousand (10,000), according to the 1980 federal census or any subsequent federal census.

(B) If a county with a metropolitan form of government having a population of not less than four hundred seventy thousand (470,000) nor more than five hundred thousand (500,000), according to the 1980 federal census or any subsequent federal census, creates a board of equalization consisting of seven (7) members, at least two (2) of the members of the board shall be appointed consistent with subdivision (a)(5)(A).

(b) If the county legislative body fails to elect, the county mayor shall appoint the members of the board and shall also fill such vacancies as the vacancies occur.

(c)(1) Magistrates or state, municipal or county legislative or executive officials or employees shall all be ineligible for positions on a county board of equalization, but this prohibition does not apply to persons who receive only compensation in lieu of expenses or a per diem payment for services. No member of any county board of equalization shall represent any taxpayer in
an assessment appeal. This subsection (c) does not apply to municipal officials or employees whose city, located in a county with a population of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census, is not eligible to appoint a member to the board.

(2) (A) Notwithstanding other provisions of this subsection (c), except in counties having a population of more than eighty-five thousand (85,000) but less than eighty-six thousand (86,000), according to the 1990 federal census or any subsequent federal census, state employees may be appointed to the county board of equalization, if their employment responsibilities do not include property assessments, except that in counties having a population of more than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, state employees shall not be appointed to the county board of equalization.

(B) No state employee serving on the county board of equalization shall be compensated by the state for time served on the county board, except that an otherwise eligible employee may use accumulated annual leave to serve on the county board with approval of the employee’s supervisor.

(d) In addition to its regular appointments under this section, an appointing authority may designate one (1) or more alternates, and the board of equalization chair may call upon an alternate to sit for a regular member who becomes unavailable for a particular hearing due to disqualification or other reason. A duly appointed alternate shall be sworn in the same manner as regular members, and any action taken by a duly appointed alternate shall be as effective as if taken by the unavailable individual.


(a) Each county board of equalization shall elect one (1) of its members chair and one (1) secretary of the board.

(b) A majority of the board shall constitute a quorum for the transaction of business.

(c) The board shall keep a daily record of its transactions, and sign the record.

(d) Board members shall be paid by the county a compensation for their services. The county legislative body shall by resolution establish the compensation of the members and the chair of the county board of equalization.

(e)(1) The county mayor shall require board members and county board hearing officers to complete annual continuing education and training on duties and responsibilities of their office as a condition of appointment or continued service.

(2) The county legislative body shall by resolution establish the minimum of at least four (4) hours of training for board members to complete annually and minimum recordkeeping requirements related to members’ certificates of attendance.

(3) The subjects for the training and continuing education shall include board governance, open meetings requirements, and other topics reasonably related to the duties of the members of the county board of equalization.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for
county boards of equalization covering the subjects set forth in subdivision (e)(3) to be submitted to the comptroller of the treasury for review and approval prior to use.

(5) Mandatory annual continuing education and training is only required under this subsection (e) to the extent that such education and training is provided by the comptroller of the treasury free of charge.


An income tax shall be levied and collected annually on incomes derived by way of dividends from stocks or by way of interest on bonds of each person, partnership, association, trust and corporation in the state of Tennessee who received, or to whom accrued, or to whom was credited during any year income from the sources enumerated in this section, except as otherwise provided in this chapter. The rate of the tax imposed by this chapter shall be:

(1) For any tax year that begins on or after January 1, 2017, and prior to January 1, 2018, four percent (4%);
(2) For any tax year that begins on or after January 1, 2018, and prior to January 1, 2019, three percent (3%);
(3) For any tax year that begins on or after January 1, 2019, and prior to January 1, 2020, two percent (2%);
(4) For any tax year that begins on or after January 1, 2020, and prior to January 1, 2021, one percent (1%); and
(5) For any tax year that begins on or after January 1, 2021, and for subsequent tax years, zero percent (0%).

67-2-104. Exemptions.

(a) The tax imposed by this chapter does not apply to the first one thousand two hundred fifty dollars ($1,250) for each individual return or two thousand five hundred dollars ($2,500) of combined income for persons who file jointly, of income otherwise taxable under this chapter.

(b) For tax years beginning January 1, 2000, and thereafter, any person sixty-five (65) years of age or older having a total annual income derived from any and all sources of sixteen thousand two hundred dollars ($16,200) or less, or any persons who file a joint return and either spouse is sixty-five (65) years of age or older having a total annual joint income derived from any and all sources of not more than twenty seven thousand dollars ($27,000), are exempt from the income tax imposed by this chapter upon submission of evidence deemed acceptable by the commissioner to establish the age and income limitations stated in this subsection (b). For tax years beginning January 1, 2012, and thereafter, the income levels specified in the previous sentence in this subsection (b) shall change to twenty-six thousand two hundred dollars ($26,200) for single filers and to thirty-seven thousand dollars ($37,000) for persons filing jointly. For tax years beginning January 1, 2013, and thereafter, the income levels specified in the previous sentence in this subsection (b) shall change to thirty-three thousand dollars ($33,000) for single filers and to fifty-nine thousand dollars ($59,000) for persons filing jointly. For tax years beginning January 1, 2015, and thereafter, the income levels under this subsection (b) shall change to thirty-seven thousand dollars ($37,000) for single filers and to sixty-eight thousand dollars ($68,000) for persons filing jointly.

(c) The income from stocks and bonds, mortgages, and notes owned and held
by blind persons, or by persons certified, in writing, by a medical doctor to be a quadriplegic, and where such income is derived from circumstances resulting in the individual becoming a quadriplegic, are exempt from the tax imposed by this chapter.

(d) No Tennessee citizen declared by the United States department of defense to be a prisoner of war is liable for payment of the tax provided for by this chapter during the time of such person’s capture and imprisonment, nor for sixty (60) days upon such person’s release, whenever it should occur.

(e)(1) Nothing contained in this chapter shall be construed or held to authorize the levy of an income tax on obligations of the United States, whether evidenced by bonds or otherwise and/or on shares of stock in corporations that are arms and agencies directly of the United States, insofar as such bonds and stocks are exempt from such taxation by the constitution or laws of the United States; or on the income derived from bonds of the state of Tennessee, or any county or municipality or other political subdivision of the state of Tennessee not subject to ad valorem taxation.

(2) Nothing contained in this chapter shall be construed or held to authorize the levy of an income tax on dividends from a regulated investment company qualified as such under Subtitle A, chapter 1, subchapter M of the Internal Revenue Code, compiled in 26 U.S.C. § 851 et seq.; provided, that a part of the value of the investments of such regulated investment company shall be in any combination of bonds or securities of the United States government or any agency or instrumentality of the United States government or in bonds of the state of Tennessee, or any county or any municipality or political subdivision of the state of Tennessee, including any agency, board, authority or commission of the United States or the state of Tennessee. Such dividends shall be exempt from the levy of an income tax only in proportion to the income of the regulated investment company attributable to interest on bonds or securities of the United States government or any agency or instrumentality of the United States government or on bonds of the state of Tennessee, or any county or any municipality or political subdivision of the state of Tennessee, including any agency, board, authority or commission of the United States or the state of Tennessee.

(3) No corporation shall be required to pay any income tax that otherwise would be assessable under this chapter on any stocks and/or bonds that constitute a part of the aggregate of its corporate property on which it is now assessed or shall be assessed for ad valorem taxes; nor when such stocks and/or bonds constitute a part of the assets that determine the value of the shares that are now or shall hereafter be assessed for ad valorem taxes to the stockholder.

(4) No person shall be assessed with this tax on income from any stock in any corporation where the value of the shares is assessed ad valorem to the stockholder by this state.

(5) No person shall be assessed with this tax on income from any stock in any corporation licensed to do business in this state as an insurance company.

(6) No person shall be assessed with this tax on income from any stock in any bank, state or federally chartered, doing business in this state.

(7) No distribution of capital shall be taxed as income under this chapter, and no distribution of surplus by way of stock dividend shall be taxable in
the year such distribution is made; but all other distributions out of earned
surplus shall be taxed as income when and in whatever manner made,
regardless of when such surplus was earned. Stock dividends issued within
one (1) year of liquidation shall be taxable in the year received to the extent
made out of earned surplus; provided, that gains over and above the par or
original pro rata capital value of original shares held shall be taxed to the
shareholder upon any transfer of stock to nonresidents in the year of such
transfer, when such transfer occurs within one (1) year prior to liquidation or
redemption. There shall, however, be exempt from taxation under this
section distribution made pursuant to decrees ordering divestiture of stock
in enforcement of antitrust statutes.

(8) The income from stocks and bonds of educational, religious or other
like institutions organized for the general welfare and not for profit or
individual gain that are exempt from taxation under the Assessment Act,
codified in § 67-5-212, shall be exempt from the taxes imposed by this
chapter; provided, that if any educational, religious or other like institution
issues stocks or bonds, the income or profit or any part of which goes to
private individuals or corporations for profit or gain and not purely for
educational, religious or charitable purposes, such income or profit shall be
subject to the tax imposed in this chapter.

(9) The income from stocks and bonds of pension trusts and profit sharing
trusts that are exempt from federal income taxation is exempt from the taxes
imposed by this chapter.

(10) The income from stocks and bonds held by a fiduciary and paid to or
irrevocably set aside for the benefit of educational, religious, or other like
institutions organized for the general welfare and not for profit or individual
gain that are exempt from taxation under the Assessment Act, codified in
§ 67-5-212, is exempt from the taxes imposed by this chapter.

(11) All income from interest on loans to qualified businesses for improve-
ments, expansions, operations, or real property within an enterprise zone, as
defined in title 13, chapter 28, part 2 shall be exempt from tax.

(12) The income derived from the trust funds in a trust created for the
perpetual care of a cemetery pursuant to title 46 shall be exempt from the
taxes imposed by this chapter.

(13) Nothing contained in this chapter shall be construed or held to
authorize the levy of any tax on earnings or distributions from an invest-
ment fund organized as a unit investment trust taxable as a grantor trust
under 26 U.S.C. §§ 671-677, or organized as a limited partnership taxable
under 26 U.S.C. §§ 701-761 and registered under the Investment Company
Act of 1940, compiled in 15 U.S.C. § 80a-1 et seq.; provided, that a part of the
value of the investments of such investment fund shall be in any combina-
tion of bonds or securities of the United States government, or any agency or
instrumentality of the United States government, or in bonds of the state of
Tennessee, or any county or any municipality or political subdivision of the
state of Tennessee, including any agency, board, authority or commission of
the United States or the state of Tennessee. Such earnings or distributions
shall be exempt from the levy of an income tax only in proportion to the
income of the investment fund attributable to interest on bonds or securities
of the United States government, or any agency or instrumentality of the
United States government, or on bonds of the state of Tennessee, or any
county or any municipality or political subdivision of the state of Tennessee,
including any agency, board, authority or commission of the United States or
the state of Tennessee.

(14) Nothing contained in this chapter shall be construed or held to authorize the levy of any tax on earnings or distributions from an education individual retirement account as defined in § 213 of Public Law 105-34, so long as such earnings or distributions were not subject to federal income tax.

(15) Nothing contained in this chapter shall be construed or held to authorize the levy of any tax on earnings or distributions from a Roth IRA as defined in Section 302 of Public Law 105-34, so long as such earnings or distributions are not subject to federal income tax.

(16) The tax imposed by this chapter does not apply to an entity that satisfies both of the following requirements:

(A) It:

(i) Is classified as a partnership or trust in accordance with 26 U.S.C. § 7701, and the federal regulations and rulings promulgated under 26 U.S.C. § 7701;

(ii) Has elected to be treated as a real estate mortgage investment conduit (REMIC) under 26 U.S.C. § 860D;

(iii) Has elected to be treated as a financial asset securitization investment trust (FASIT) under 26 U.S.C. § 860L; or

(iv) Is a business trust, as defined in § 48-101-202(a), or is classified as a trust under the laws of the state in which it is created and is disregarded for federal income tax under 26 U.S.C. § 7701, when the commercial domicile of the trustee is not in this state; and

(B)(i) The sole purpose of the entity, except for foreclosures and dispositions of the assets of foreclosures, is the asset-backed securitization of debt obligations, such as first or second mortgages, including home equity loans, trade receivables, whether an open account or evidenced by a note or installment or conditional sales contract, obligations substituted for trade receivables, credit card receivables, personal property leases treated as debt for purposes of the Internal Revenue Code of 1986, compiled in 26 U.S.C., home equity loans, automobile loans or similar debt obligations.

(ii) “Trade receivables” as used in subdivision (e)(16)(B)(i) means obligations arising from the sale of inventory in the ordinary course of business.

(17) The income from stock in any publicly traded real estate investment trust, as defined in § 67-4-2004, is exempt from the tax imposed by this chapter.

(18) The income from stocks and bonds of trusts for perpetual care or improvement of private cemeteries, graves, or burial grounds are exempt from the taxes imposed by this chapter.

(f) For tax years beginning January 1, 2018, and thereafter, any person one hundred (100) years of age or older, or any persons who file a joint return and either spouse is one hundred (100) years of age or older, are exempt from the income tax imposed by this chapter.
67-2-119. Disposition of revenue.

(a) Of the taxes collected under this chapter upon income from stocks and bonds taxable at the rate provided in § 67-2-102 per annum, five eighths ($\frac{5}{8}$) shall be paid into the general fund of the state treasury and the remaining three eighths ($\frac{3}{8}$) shall be distributed among the cities and counties of the state.

(b) Where a taxpayer residing within the corporate limits of any municipality pays a tax imposed at the rate provided in § 67-2-102 per annum, then three eighths ($\frac{3}{8}$) of the net tax collected from such taxpayer shall be returned to the city within which such taxpayer resides.

(c) Where a taxpayer residing in a county, but outside the corporate limits of any municipality, pays a tax imposed by this chapter at the rate provided in § 67-2-102 per annum, then three eighths ($\frac{3}{8}$) of the net tax collected from such taxpayer shall be returned to the county within which such taxpayer resides.

(d) In each instance, the payment to cities and counties covering collections made under this section during any fiscal year shall be made on or before July 31 immediately following the close of that year.

67-2-123. Implementation of income tax incentive for participation in college savings plans.

(a) The department shall assist the board of trustees of the college savings trust fund program in the implementation of an income tax incentive established under § 49-7-805(4) that shall include, but not be limited to, college savings plan incentive inserts in the department's income tax notifications, providing college savings plan incentives information with any web site tax payment form, sending other notifications about college savings incentives by electronic means, and providing information about college savings incentives through any other web-based means.

(b) For any insert included in the mailing of renewal notices that causes the total postal weight to be over one ounce (1 oz.) as permitted by the United States postal service, the board of trustees of the college savings trust fund program shall pay the increased cost of mailing.


(a) The reduction to the rate of tax made by chapter 1064 of the Public Acts of 2016 shall not be construed to absolve any taxpayer of liability for any tax duly levied by this chapter, during a tax year that began prior to January 1, 2016.

(b) It is the legislative intent that the tax be reduced by one percent (1%) annually through enactments of general bills beginning with the first annual session of the 110th general assembly.

(c) The income tax levied by this chapter is eliminated for tax years that begin on or after January 1, 2021; provided, however, that this subsection (c) shall not be construed to absolve any taxpayer of liability for any tax duly levied by this section, during a tax year that began prior to January 1, 2021.
67-2-125. Angel investor tax credit.

(a) For tax years beginning January 1, 2017, and thereafter, there shall be allowed a credit of thirty-three percent (33%) of the value of a cash investment by an angel investor against the liability of such angel investor under this chapter in the tax year in which the investment was made. All credits allowed under this subsection (a) are nonrefundable and nontransferable. Any unused credit allowed under this subsection (a) may be carried forward for five (5) years after the tax year in which the credit originated.

(1) For purposes of this section, “angel investor” means a natural person who:

(A) Is an accredited investor as defined in 17 CFR 230.501(a)(5) or (a)(6); and

(B) Invests in a company that, at the time of the investment:

(i) Is an innovative small business with high-growth potential, including, but not limited to, tech-enabled startups and companies in the fields of consumer products, medical devices, life science, or additive manufacturing; or is a company that has received small business innovation research/small business technology transfer (SBIR/STTR) funding; or is commercializing technology developed at a research institution within this state;

(ii) Is not a professional service firm and is not primarily engaged in the provision of goods or services within the following industries: construction, leisure, hospitality, retail, real estate, insurance, banking, lobbying, consulting, alcohol, or gambling;

(iii) Has been in business for five (5) or fewer years;

(iv) Has, based on the prior fiscal year, three million dollars ($3,000,000) or less in gross annual revenue; and

(v) Has fifty (50) or fewer full-time employees, as defined in § 67-4-2109(f)(1)(A), and at least sixty percent (60%) of those employees perform the majority of their job duties within this state.

(2) The credit allowed under this subsection (a) shall be limited to fifty thousand dollars ($50,000) per angel investor in any tax year.

(3) For tax years beginning in 2017, a maximum of three million dollars ($3,000,000) in tax credits may be allowed under this subsection (a). For tax years beginning in 2018, a maximum of four million dollars ($4,000,000) of credits may be allowed under this subsection (a). For tax years beginning January 1, 2019, and thereafter, a maximum of five million dollars ($5,000,000) of credits may be allowed under this subsection (a).

(4)(A) A credit may be allowed under this subsection (a) only if the investment is at least fifteen thousand dollars ($15,000) and represents no more than forty percent (40%) of the capitalization of the company at the time of the investment.

(B) Within sixty (60) days of the date of the investment, the angel investor shall apply to the Tennessee technology development corporation, in a manner to be determined by the Tennessee technology development corporation, for a certificate of qualification under this section. The angel investor shall affirm that all requirements for qualification under subdivision (a)(1) have been met, and shall provide proof of the investment in a form to be determined by the Tennessee technology development corporation. Certificates of qualification shall be issued by the Tennessee technol-
ogy development corporation on a first-come, first-served basis. The Tennessee technology development corporation shall ensure that the amount of all certificates of qualification issued under this subdivision (a)(4)(B) does not exceed the maximum annual amounts described in subdivision (a)(3).

(C) The angel investor shall submit the certificate of qualification described in subdivision (a)(4)(B) to the department of revenue when claiming a credit under this section.

(5) A qualified angel investor who invests in a company located in a Tier 4 county, as defined in § 67-4-2109(a)(2)(C), shall be allowed a credit of fifty percent (50%) of the value of such investment against the liability of such angel investor under this chapter. The angel investor shall otherwise be subject to all other requirements described in this section.

(b) A review of the cumulative effectiveness of the credit authorized under this section shall be conducted by the Tennessee technology development corporation by July 1, 2020. Such review shall include, but is not limited to, the number and type of businesses that received angel investments, the number of angel investors and the aggregate amount of cash investments, the current status of each business that received angel investments, and the estimated economic impact to the state of businesses that received an investment under this section. A report containing the findings of the review conducted pursuant to this subsection (b) shall be generated. A copy of the report shall be transmitted to the governor, the speaker of the senate, the speaker of the house of representatives, the chair of the finance, ways and means committee of the senate, the chair of the finance, ways and means committee of the house of representatives, the commissioner of economic and community development, and the commissioner of revenue.

67-3-201. Gasoline tax.

(a) Subject to exemptions provided in part 4 of this chapter, a privilege tax is imposed upon all gasoline, fuel alcohol and substitutes therefor, imported into the state; the tax being levied when the product first comes to rest in the state. The tax shall also be imposed on all gasoline or substitutes therefor refined, manufactured, produced, or compounded in this state, and thereafter sold, stored or distributed in this state. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter. The rate of the tax imposed by this section shall be:

(1) On or after July 1, 2017, through June 30, 2018, twenty-four cents (24¢) per gallon;

(2) On or after July 1, 2018, through June 30, 2019, twenty-five cents (25¢) per gallon; and

(3) On or after July 1, 2019, twenty-six cents (26¢) per gallon.

(b) No fuel shall be included in the measure of the tax liability under this section unless it shall have previously come to rest within the meaning of the commerce clause of the Constitution of the United States.


(a) Subject to exemptions provided in part 4 of this chapter, and except as provided in subsection (c), a use tax is imposed upon all diesel fuel and all fuel other than gasoline that is suitable for use in a diesel-powered vehicle or that
is used or consumed in this state to produce power for propelling motor vehicles; it being the purpose and intent of this section that the taxes being levied on taxable motor fuels under this chapter are in fact a levy and assessment on the consumer, and the levy and assessment on other persons as specified in this chapter are as agents of the state for the collection of such tax.

The rate of the tax imposed by this section shall be:

1. On or after July 1, 2017, through June 30, 2018, twenty-one cents (21¢) per gallon;
2. On or after July 1, 2018, through June 30, 2019, twenty-four cents (24¢) per gallon; and
3. On or after July 1, 2019, twenty-seven cents (27¢) per gallon.

The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this chapter.

(c) Notwithstanding subsection (a), diesel fuel that is indelibly dyed in accordance with internal revenue service regulations and is legal for exempt use only shall not be considered subject to the diesel tax imposed under this section, except when used by a commercial carrier to produce power for a means of transportation, as defined in the Transportation Fuel Equity Act, compiled in part 14 of this chapter, in which case a use tax of seventeen cents (17¢) per gallon is imposed on such fuel.

67-3-901. Gasoline Tax — Distribution of receipts — Expenses of administration — Utility relocation loan program.

(a) The commissioner shall apportion for distribution all of the taxes collected pursuant to § 67-3-201, and shall inform the department of finance and administration as to the proper amounts of all distributions to be made from the taxes.

(b) Revenues from the tax imposed by § 67-3-201 shall be apportioned for distribution in the following order:

1. Amounts required to be paid to the debt service fund pursuant to title 9, chapter 9;
2. Of the amounts designated in subdivisions (b)(2)-(5) for distribution to the counties, cities and highway fund, one percent (1%) shall be subtracted from the amount designated for cities, one percent (1%) shall be subtracted from the amount designated for counties, and two percent (2%) shall be subtracted from the amount designated for the highway fund for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities, counties or highway fund;
3. Twenty-eight and sixty-eight hundredths percent (28.68%) of total taxes collected to the various counties of the state on the basis set out in § 54-4-103;
4. Fourteen and thirty-eight hundredths percent (14.38%) of total taxes collected to the various municipalities, as defined by § 54-4-201, on the basis set out at § 54-4-203; and
5. Any funds remaining after the distributions set out in subdivisions (b)(1)-(4) to the highway fund. There shall be accumulated and set apart within the fund such amounts as required, not to exceed one million five hundred thousand dollars ($1,500,000) during each of four (4) succeeding fiscal years, which shall be available for carrying out the utility relocation
loan program, established in subsection (j).

(c) Revenues from the increases in taxes imposed by chapter 49 of the Acts of 1985, and chapter 454 of the Acts of 1985, effective 1985, shall be distributed in accordance with the following formula:

(1) Two cents (2¢) of such revenues shall be apportioned pursuant to subsection (b); and

(2) One cent (1¢) of such revenues shall be apportioned as follows:

(A) Of such amount designated in subdivisions (c)(2)(B) and (C) for distribution to the counties and cities, one percent (1%) shall be subtracted from the amount designated for cities and one percent (1%) shall be subtracted from the amount designated for counties for distribution to the general fund for expenses of administration prior to the distribution of the funds to the cities or counties;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(d) Notwithstanding any law to the contrary, a county shall be eligible to receive those revenues to be distributed directly to it from the tax increases imposed by chapter 419 of the Acts of 1985, and chapter 454 of the Acts of 1985, effective 1985, only if it appropriates and allocates funds for road purposes from local revenue sources in an amount not less than the average of the five (5) preceding fiscal years, except bond issues and federal revenue sharing proceeds shall be excluded from the five (5) year average computation. If a county fails after July 1, 1985, to so appropriate and allocate at least such average amount for road purposes, then the amount of revenues that would otherwise be allocable to such county from the revenues derived by former §§ 67-3-603 and 67-3-604 as those statutes existed on July 1, 1985, shall be reduced by the amount of the decrease below such average. The amount of such funds not allocated to such county because of such decrease shall be allocated to the state highway fund, to be used by the department of transportation for the improvement of state highways in such county, and such state funds shall be in addition to the funds otherwise allocated for improvements in such county in that fiscal year.

(e) Funds apportioned to counties under chapter 419 of the Acts of 1985 shall be used for resurfacing and upgrading county roads, including the paving of gravel roads. Any expenditure for equipment shall be approved by a two-thirds (%2) vote of the county legislative body, prior to purchase.

(f) Revenues from the increases in taxes imposed by former §§ 67-3-603 and 67-3-604 as those statutes existed on June 1, 1986, shall be distributed and allocated as follows:

(1) Revenue from the first three cents (3¢) per gallon of such increases in taxes shall be apportioned as follows:

(A) Amounts required to be paid to the debt service fund pursuant to title 9, chapter 9;

(B) Three million dollars ($3,000,000) per annum, beginning on July 1, 1986, to the highway fund for the use and benefit of certain mass transit projects; and

(C) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a
twelve-year cycle of resurfacing with implementation beginning in 1986 and being completed by 1998, and for new construction in the primary system of highways over the period from 1986 to 1999; and

(2) Revenue from one cent (1¢) of such increases in taxes shall be apportioned as follows:

(A) Of such amount designated hereafter for distribution to counties and cities, one percent (1%) shall be subtracted from the amount designated for counties, and one percent (1%) shall be subtracted from the amount designated for cities for distribution to the general fund for expenses of administration prior to the distribution of the funds to the counties or cities;

(B) Sixty-six and two-thirds percent (66\(\frac{2}{3}\)%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33\(\frac{1}{3}\)%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(g) Prior to the apportionment set out in subsections (b), (c), (d) and (f), there shall be apportioned for distribution to the wildlife resources fund an amount equal to five thousand three hundred forty-four ten-thousandths of one percent (0.5344%) of the taxes collected under § 67-3-201, exclusive of tax revenues resulting from the three cents (3¢) per gallon gasoline tax increase imposed by chapter 46 of the Public Acts of 1989 and all tax revenues resulting from the gasoline tax increase imposed by chapter 181 of the Public Acts of 2017.

(h) All revenues and investment income derived from the increase in the gasoline tax rate imposed by chapter 46 of the Acts of 1989, shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsection (b).

(i) Revenues from the one cent (1¢) increase in taxes, from nineteen cents (19¢) to twenty cents (20¢), imposed by former §§ 67-3-1703 and 67-3-1704, as those statutes existed under prior Tennessee law immediately after chapter 241 of the Acts 1989 became effective, shall be apportioned as provided in subdivision (f)(2).

(j)(1) From the amounts accumulated and set apart pursuant to subdivision (b)(5), there is established a “utility relocation loan program” for loan financing of all costs incurred by any county, town, city, metropolitan government, utility district, authority or not-for-profit business organizations empowered to provide utility services that provide utility services to customers related to relocating, moving or re-installing their utility facilities, without any additions to their utility facilities, when located within rights-of-way of highways on the system of state highways and required because of highway construction projects administered by the department of transportation.

(2) The utility management review board shall review applications for utility relocation loans. Only applicants that meet all of the following criteria may be recommended to the state funding board for loans:

(A) Are obligated to relocate, move or re-install its utilities due to a state highway project;

(B) Have been otherwise unable to obtain financing for such relocation at a reasonable cost on reasonable terms;

(C) Have established fees and charges for services of the utility to be effective immediately or over time sufficient to provide assurance of
financial stability, and to agree to adjust such fees and charges periodically
to ensure timely payment of loan payments and costs of operation of the
system; and
(D) Have covenanted to take such actions necessary to be able to pay all
loan payments when due.
(3) As part of its recommendation, the utility management review board
shall recommend an estimated amount of the loan and an interest rate for
the loan, utilizing an economic index based upon factors that include, but are
not limited to, per capita incomes and property values of the applicant.
Applicants falling within the lower economic scale on the index shall be
eligible for lower interest rates. Loans may be recommended at no interest
for terms of five (5) years or less. In determining its recommendations, the
board may use any index or regulations promulgated pursuant to
§ 68-221-1005(b).
(4) The state funding board is empowered to make and administer loans
from the funds and may establish such terms as it determines to be
appropriate to carry out the terms of this subsection (j), subject to the
following:
(A) Loans shall be for a term of fifteen (15) years or less, not to exceed
the useful life of the relocated utilities, with no prepayment penalties;
(B) Loans shall be subject to such other terms, not inconsistent with the
foregoing, as the board determines to be appropriate; and
(C) Prior to the start of each fiscal year, the secretary of the state
funding board shall certify to the commissioner of finance and adminis-
tration and the commissioner of transportation, the uncommitted balance
in the loan program as of the start of the next fiscal year.
(5) This subsection (j) shall not be construed to be an appropriation of
funds and no funds shall be obligated or expended pursuant to this
subsection (j), unless such funds are specifically appropriated through the
department of transportation or as a specific amendment by the general
appropriations act.
(k) Notwithstanding § 54-2-103 or any other law to the contrary, a percent-
age of funds collected and allocated to the state highway fund shall be
deposited in the general fund as follows:
(1) If the statute allocating funds to the state highway fund earmarks two
percent (2%) or more of the revenue collected for the general fund, no
additional allocation to the general fund shall be made;
(2) If the statute allocating funds to the state highway fund earmarks less
than two percent (2%) of the revenue collected for the general fund, an
amount equal to the amount necessary when added to the statutory
earmark, if any, equals two percent (2%) of the revenue collected shall be
earmarked for the general fund;
(3) If the additional revenues earmarked for the general fund as provided
in subdivision (k)(2) are less than seven million dollars ($7,000,000) in the
fiscal year ending June 30, 2001, and in subsequent fiscal years, the earmark
for the general fund from the gasoline tax imposed under § 67-3-201 shall be
increased in an amount sufficient to provide that the total amount ear-
marked for the general fund as provided in subdivision (k)(2) and this
subdivision (k)(3) shall be seven million dollars ($7,000,000) in the fiscal
year ending June 30, 2001, and in subsequent fiscal years;
(4) The allocation of funds as provided in this subsection (k) shall not have
an impact on any scheduled or ongoing construction projects;

(5) The department of transportation shall submit any proposal for apportionment of costs resulting from the general fund allocation in this subsection (k) to the state building commission for approval prior to implementing such proposal, including, but not limited to, the programs and projects to be affected and the amount proposed to be allocated to each such program or project;

(6) Except as provided in subdivision (k)(4), it is the legislative intent that the effect of this subsection (k) be allocated on a pro rata basis to any affected program or project; and

(7) This subsection (k) shall not apply to revenues generated under § 67-3-201 from the increase in the tax imposed by chapter 181 of the Public Acts of 2017.

(l) Revenues derived under § 67-3-201 from the increase in taxes imposed by chapter 181 of the Public Acts of 2017 shall be apportioned and distributed in the following manner:

(1) Twenty-five and four-tenths percent (25.4%) to the various counties of the state on the basis set forth in § 54-4-103;

(2) Twelve and seven-tenths percent (12.7%) to the various municipalities, as defined by § 54-4-201, on the basis set forth in § 54-4-203; and

(3) Sixty-one and nine-tenths percent (61.9%) to the highway fund.

(m) Notwithstanding any law to the contrary, a county shall be eligible to receive those revenues to be distributed directly to it from the increase in taxes imposed by chapter 181 of the Public Acts of 2017 only if it appropriates and allocates funds for road purposes from local revenue sources in an amount not less than the average of the five (5) preceding fiscal years, except bond issues and federal revenue sharing proceeds shall be excluded from the five-year average computation. If a county fails after July 1, 2017, to so appropriate and allocate at least such average amount for road purposes, then the amount of revenues that would otherwise be allocable to such county under this section shall be reduced by the amount of the decrease below such average. The amount of such funds not allocated to such county because of such decrease shall be allocated to the state highway fund, to be used by the department of transportation for the improvement of state highways in such county, and such state funds shall be in addition to the funds otherwise allocated for improvements in such county in that fiscal year.

67-3-905. Diesel tax, compressed natural gas, and prepaid user diesel tax — Allocation of proceeds.

(a) The tax imposed pursuant to §§ 67-3-202, 67-3-1113, and 67-3-1309, shall be allocated and distributed in the following order and manner:

(1) One and sixty-two hundredths percent (1.62%) to the general fund;

(2) Twenty-four and seventy-five hundredths percent (24.75%) to the counties of the state to become a part of the county highway fund in the following manner:

(A) Fifty percent (50%) equally among all counties;

(B) Twenty-five percent (25%) on the basis of population; and

(C) Twenty-five percent (25%) on the basis of area;

(3) Twelve and thirty-eight hundredths percent (12.38%) to municipalities, as defined in § 54-4-201, on the basis set out as § 54-4-203; and
(4) Sixty-one and twenty-five hundredths percent (61.25%) to the highway fund.

(b) Revenues from the increases in taxes imposed by chapter 931 of the Acts of 1986, shall be distributed and allocated as follows:
   (1) Amounts required to be paid to the debt service fund pursuant to title 9, chapter 9; and
   (2) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a twelve-year cycle of resurfacing within the period between 1986 and 1998; and for new construction in the primary system of highways over the period from 1986 to 1999.

(c) All revenues and investment income derived from the increase in the motor vehicle fuel use tax imposed by chapter 46 of the Acts of 1989 shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

(d) Revenue from the one cent (1¢) increase from sixteen cents (16¢) to seventeen cents (17¢) in the tax imposed by chapter 241 of the Acts of 1989, effective April 1, 1990, and all investment income derived therefrom, shall be placed in the state highway fund and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

(e) Revenues derived under § 67-3-202 from the increase in taxes imposed by chapter 181 of the Public Acts of 2017 shall be apportioned and distributed in the following manner:
   (1) Seventeen and five-tenths percent (17.5%) to the various counties of the state on the basis set forth in § 54-4-103;
   (2) Eight and eight-tenths percent (8.8%) to the various municipalities, as defined by § 54-4-201, on the basis set forth in § 54-4-203; and
   (3) Seventy-three and seven-tenths percent (73.7%) to the highway fund.

(f) Revenues derived under § 67-3-1113 from the increase in taxes imposed by chapter 181 of the Public Acts of 2017 shall be distributed to the highway fund.

67-3-908. Liquified gas — Distribution of tax.

(a) The tax imposed by chapter 203 of the Acts of 1983 shall be distributed as follows:
   (1) One and fifty-eight hundredths percent (1.58%) to the general fund;
   (2) Twenty-eight and twenty-eight hundredths percent (28.28%) to the counties to become a part of the county highway fund in the following manner:
      (A) Fifty percent (50%) equally among all counties;
      (B) Twenty-five percent (25%) on the basis of population; and
      (C) Twenty-five percent (25%) on the basis of area;
   (3) Fourteen and fourteen hundredths percent (14.14%) to municipalities, as defined in § 54-4-201, on the basis set out in § 54-4-203; and
   (4) Fifty-six percent (56%) to the highway fund.

(b) Revenues from the increases in taxes imposed by chapter 931 of the Acts of 1986, shall be distributed and allocated as follows:
   (1) Revenue from the first three cents (3¢) per gallon of such increases in taxes shall be apportioned as follows:
      (A) Amounts required to be paid to the debt service fund pursuant to
title 9, chapter 9; and

(B) All other amounts to the highway fund to be used for accelerating the resurfacing of the state system of highways in order to establish a cycle of resurfacing during the period from 1986 to 1998; and for new construction in the primary system of highways; and

(2) Revenue from one cent (1¢) of such increases in taxes shall be apportioned as follows:

(A) Of such amount designated in subdivisions (b)(2)(B) and (C) for distribution to counties and cities, one percent (1%) shall be subtracted from the amount designated for counties and one percent (1%) shall be subtracted from the amount designated for cities for distribution to the general fund for expenses of administration prior to the distribution of the funds to the counties or cities;

(B) Sixty-six and two-thirds percent (66 2/3%) of such revenues collected to the various counties of the state on the basis set out in § 54-4-103; and

(C) Thirty-three and one-third percent (33 1/3%) of such revenues collected to the various municipalities, as defined by § 54-4-201, on the basis set out in § 54-4-203.

(c) All revenues and investment income derived from the increase in the liquified gas tax imposed by chapter 46 of the Acts of 1989 shall be placed in the state highway fund, and shall not be subject to the apportionment and distribution provisions of subsections (a) and (b).

(d) Revenues derived under § 67-3-1102 from the increase in taxes imposed by chapter 181 of the Public Acts of 2017 shall be distributed to the highway fund.

67-3-912. Use of funds generated by 2017 increases.

(a) It is the intent of the general assembly that all revenues derived from the increased taxes and fees imposed by chapter 181 of the Public Acts of 2017 on petroleum products and alternative fuels under this chapter and motor vehicle registration under title 55, chapter 4, shall be used to:

(1) Maintain roads and bridges on the state highway system, including the interstate highway system;

(2) Support economic development and promote the professional development needs of women and minorities through the construction of transportation facilities in accordance with the State Industrial Access Act, compiled in title 54, chapter 5, part 4, and the Local Interstate and Fully Controlled Access Highway Connector Act, compiled in title 54, chapter 5, part 5;

(3) Maintain public roads and bridges within the boundaries of parks, as defined by § 11-3-101, administered by the department of environment and conservation;

(4) Support local government investment in transit programs to improve regional transit services across the state and help manage congestion along major highways;

(5) Assist rural transit providers in improving the efficiency of demand response services;

(6) Support projects and programs identified in the department of transportation’s annual transportation improvement program submitted to the general assembly in support of the department’s annual budget and as approved in the annual appropriations acts; and
(7) Fund the development and construction of the projects listed in subsection (b).

(b) The projects to be developed and constructed in accordance with this section are identified by county, route number, project description, and project location, including beginning log mile (LM) where applicable, as follows:

(1) Anderson County, Route 04365, Briar Cliff Avenue bridge over branch, LM 1.470;
(2) Anderson County, Route 0A276, Old State Circle bridge over Bull Run Creek, LM 0.390;
(3) Anderson County, Route 0A460, Meadow Street bridge over Right Fork Coal Creek, LM 0.108;
(4) Anderson County, I-75, ITS instrumentation at SR-61 (Andersonville Highway, Exit 122) interchange;
(5) Anderson County, SR-170, from SR-9/US-25W (Clinton Highway) to SR-62 (Oak Ridge Highway);
(6) Anderson County, SR-61, State Highway 61 bridge over Brushy Creek, LM 3.980;
(7) Anderson County, US-25W (SR-9), bridge over Bull Run Creek, LM 16.100;
(8) Bedford County, Route 0A048, Roy Moore Road bridge over North Fork Creek, LM 0.379;
(9) Bedford County, Route 0A122, Gregory Mill Road bridge over Fall Creek, LM 0.892;
(10) Bedford County, Route 0A170, Kellertown Road bridge over Straight Creek, LM 0.713;
(11) Bedford County, Route 0A233, Rowesville Church Road bridge over Shippman Creek, LM 0.065;
(12) Bedford County, Route 0A390, Fosterville Road bridge over Bell Buckle Creek, LM 2.019;
(13) Bedford County, Route 0A468, Horse Mountain Road bridge over Pannell Creek, LM 4.404;
(14) Bedford County, Route 0A664, Old Highway 64 bridge over Stokes Branch, LM 0.113;
(15) Bedford County, SR-269, Normandy to Tullahoma Road bridge over Carr Branch, LM 18.960;
(16) Bedford County, SR-437, (Shelbyville Bypass) from US-231 (SR-10) to US-41A (SR-16);
(17) Bedford County, SR-64, Walking Horse Parkway bridge over Sugar Creek, LM 9.450;
(18) Bedford County, US-41A (SR-16), (Madison Street) from SR-64 East of Shelbyville to Jenkins Road;
(19) Bedford County, US-41A (SR-16), bridge over Hook Creek, LM 9.540;
(20) Benton County, Route 00911, Lower Sandy Road bridge over Ramble Creek, LM 15.720;
(21) Benton County, Route 01753, Sulphur Creek Road bridge over Sulphur Creek, LM 6.870;
(22) Benton County, Route 0A156, Mt. Zion Church Road bridge over Sulphur Creek, LM 0.084;
(23) Benton County, Route 0A197, Frazier Street bridge over Charlie Creek, LM 0.215;
(24) Benton County, Route 0A439, Fern Avenue bridge over Cane Creek,
LM 1.264;
(25) Benton County, I-40, Decatur-Benton county line to SR-191 (Birdsong Road);
(26) Benton County, I-40, Benton County rest area renovation;
(27) Benton County, SR-147, Danville Road bridge over Dry Creek, LM 1.830;
(28) Benton County, US-70 (SR-1), from Camden Bypass to Tennessee River;
(29) Benton and Houston counties, SR-147, ferry service across the Tennessee River, SR-69A to SR-147;
(30) Bledsoe County, Route 02174, Old Highway 28 bridge over Swafford Branch, LM 4.390;
(31) Bledsoe County, Route 0A068, Alvin York Highway bridge over branch, LM 13.012;
(32) Bledsoe County, Route 0A310, Ray Hixson Road bridge over branch, LM 0.741;
(33) Blount County, SR-162, (Pellissippi Pkwy.) from SR-33 to SR-73 (US-321);
(34) Blount County, SR-336, (Montvale Rd.) from Montvale Station Road to SR-73 (Lamar Alexander Parkway);
(35) Blount County, US-129 (SR-115), (bypass) from SR-73 (Lamar Alexander Parkway) to SR-35;
(36) Blount County, US-129 (SR-115), (Alcoa Highway) from Pellissippi Parkway (SR-162) to north of Little River;
(37) Blount County, US-129 (SR-115), (Relocated Alcoa Highway) from Hall Road (SR-35), south of Airport Road to proposed interchange at Tyson Boulevard;
(38) Blount County, US-129 (SR-115), (Relocated Alcoa Highway) from proposed interchange at Tyson Boulevard to SR-162 (Pellissippi Parkway);
(39) Blount County, US-129 (SR-115), (Relocated Alcoa Highway) from SR-162 (Pellissippi Parkway) to existing SR-115 at Singleton Station Road;
(40) Blount and Knox counties, I-140, ITS expansion from I-140 mile marker 2 to SR-115 (US-129, Alcoa Highway, Exit 11);
(41) Blount and Knox counties, US-129 (SR-115), ITS expansion from I-140 in Blount County to Cherokee Trails in Knox County;
(42) Blount and Sevier counties, Foothills Parkway, (Missing Link) from US-321 near Walland to US-321 near Wears Valley (joint project with National Parks Service);
(43) Bradley County, Route 02265, Chatata Valley Road bridge over Chatata Creek, LM 5.420;
(44) Bradley County, Route 04615, 20th Street N.E. bridge over Little Chatata Creek, LM 0.090;
(45) Bradley County, Route 0A003, Lead Mine Valley Road bridge over Black Fox Creek, LM 4.752;
(46) Bradley County, Route 0A062, Brymer Creek Road bridge over Brymer Creek, LM 2.979;
(47) Bradley County, Route 0A234, Pleasant Grove Place bridge over Candies Creek, LM 0.563;
(48) Bradley County, Route 0D947, Tunnel Hill Road bridge over Black Fox Creek, LM 6.157;
(49) Bradley County, Route I-75, Cleveland urban boundary to Bradley-
McMinn county line;
(50) Bradley County, Route I-75, truck climbing lane southbound at White Oak Mountain;
(51) Bradley County, Route SR-60, (Georgetown Road) from 4-Lane north of I-75 (Westlake Drive) to SR-306;
(52) Bradley County, SR-60, Georgetown Road N.W. bridge over Candies Creek, LM 18.580;
(53) Bradley County, Route US-11 (SR-2), from near Anatole Lane to SR-308 in Charleston;
(54) Bradley, Hamilton, and Meigs counties, SR-60, from SR-306 to SR-58 in Hamilton County;
(55) Campbell County, Route 01278, Towe String Road bridge over private road, LM 3.770;
(56) Campbell County, Route 01282, Davis Creek Road bridge over Davis Branch, LM 5.000;
(57) Campbell County, Route 01282, Davis Creek Road bridge over Davis Branch, LM 5.270;
(58) Campbell County, Route 02425, Old Highway 63 bridge over Titus Creek, LM 7.970;
(59) Campbell County, Route 0A080, Old Stinking Creek Road bridge over Stinking Creek, LM 0.785;
(60) Campbell County, Route 0A247, D.W. Baird Lane bridge over Stinking Creek, LM 0.292;
(61) Campbell County, Route 0B001, Dossett Lane bridge over CSX Railroad at LM 0.26 in LaFollette, LM 0.200;
(62) Campbell County, I-75, from Anderson-Campbell county line to SR-9 (Appalachian Highway) right and 2425 Royal Blue Road left;
(63) Campbell County, I-75, ITS expansion at SR-63 (Howard Baker Road, Exit 141) interchange;
(64) Campbell County, I-75, implement a fog and severe weather detection system on I-75 over Jellico Mountain;
(66) Campbell County, SR-63, (Howard Baker Highway) from Scott County line to I-75;
(67) Campbell County, SR-63, (General Carl W. Stiner Highway) from LaFollette urban boundary to Frontier Road/Woodson Lane;
(68) Campbell County, SR-63, (General Carl W. Stiner Hwy.) from Frontier Road/Woodson Lane to Claiborne County line;
(69) Campbell County, Route 0A622, North 11th Street bridge over CSX Railroad in LaFollette, LM 0.270;
(70) Cannon County, Route 01376, Murfreesboro Road bridge over branch, LM 4.020;
(71) Cannon County, Route 0A014, McAllister Lane bridge over Sanders Fork Creek, LM 0.016;
(72) Cannon County, Route 0A021, Marshall Creek Road bridge over Marshall Creek, LM 2.461;
(73) Cannon County, Route 0A059, Blair Branch Road bridge over Blair Creek, LM 0.772;
(74) Cannon County, Route 0A090, Tate Road bridge over Connell Creek, LM 0.024;
(75) Cannon County, Route 0A141, Bullpen Road bridge over Bullpen Creek, LM 1.746;
(76) Cannon County, Route 0A181, Gilley Hill Road bridge over Brawleys Fork Creek, LM 2.702;
(77) Cannon County, Route 0A184, Howard Youree Road bridge over Dug Branch, LM 0.057;
(78) Cannon County, Route 0A293, Jack Barnes Road bridge over Hurricane Creek, LM 0.005;
(79) Cannon County, Route 0A316, Castle Point bridge over Leach Creek, LM 0.215;
(80) Cannon County, Route 0A331, Polly Campbell Road bridge over Wilmore Creek, LM 0.010;
(81) Cannon County, Route 0A332, Curtis George Road bridge over Wilmore Creek, LM 0.010;
(82) Cannon County, Route 0A354, Ferrell Bridge Lane bridge over East Fork Stones River, LM 0.010;
(83) Cannon County, US-70S (SR-1), W. Main Street bridge over East Fork Stones River, LM 6.150;
(84) Cannon County, US-70S (SR-1), W. Main Street) from west of Woodbury to new SR-1 (US-70S) east of Woodbury;
(85) Carroll County, Route 0A393, Hollow Rock Branch Road bridge over Hollow Rock Branch, LM 0.344;
(86) Carroll County, SR-436, Reedy Creek Road bridge over Reedy Creek, LM 0.680;
(87) Carroll County, US-79 (SR-76), (Broad Street S.) from east of SR-77 to west of Cutlip Lane;
(88) Carroll County, US-79 (SR-76), (Broad Street N.) from west of Cutlip Lane to west of Sydnor/Winston Road;
(89) Carter County, Route 01385, Smalling Road bridge over Watauga River, LM 1.990;
(90) Carter County, Route 02609, Governor Alfred Taylor Road bridge over Buffalo Creek, LM 3.510;
(91) Carter County, Route 02680, Cove Creek Road bridge over Doe River, LM 0.570;
(92) Carter County, Route 04833, Southside Road bridge over Gap Creek, LM 1.140;
(93) Carter County, Route 0A102, Big Sandy Road bridge over Stoney Creek, LM 0.618;
(94) Carter County, Route 0A250, Reeser Road bridge over Buffalo Creek, LM 0.107;
(95) Carter County, Route 0A373, Hillside Drive bridge over Doe River, LM 0.020;
(96) Carter County, Route 0A618, Paul Blevins Road bridge over Tiger Creek, LM 0.030;
(97) Carter County, Route 0A634, Railroad Grade Road bridge over Bear Gage Road/Doe River, LM 1.757;
(98) Carter County, Route 0A642, Crabtree Road bridge over George Creek, LM 0.625;
(99) Carter County, Route 0A656, Sugar Hollow Road bridge over Doe River, LM 0.009;
(100) Carter County, Route 0A724, Stevens Road bridge over Little Doe
River, LM 0.087;
(101) Carter County, Route 0A746, Old SR-67 bridge over Laurel Fork Creek, LM 0.294;
(102) Carter County, Route 0A752, Stout Hollow Road bridge over Laurel Fork Creek, LM 0.008;
(103) Carter County, Route 0A765, Dennis Cove Road bridge over Laurel Fork Creek, LM 4.520;
(104) Carter County, Route 0A767, Crow Road bridge over Laurel Fork Creek, LM 0.023;
(105) Carter County, Route 0A869, Earl Williams Road bridge over Stoney Creek, LM 0.561;
(106) Carter County, Route 0A906, Danner Subdivision Road bridge over Stoney Creek, LM 0.393;
(107) Carter County, Route 0A961, Ensor Graveyard Road bridge over Stoney Creek, LM 0.018;
(108) Carter County, Route 0A967, Blevins Hollow Road bridge over Stoney Creek, LM 0.048;
(109) Carter County, Route 0A972, Estep Hollow Road bridge over Stoney Creek, LM 0.110;
(110) Carter County, Route 0A974, Estep Loop bridge over Stoney Creek, LM 1.614;
(111) Carter County, Route 0A984, Big Sandy Road bridge over Stoney Creek, LM 0.058;
(112) Carter County, Route 0B001, Honeycutt Street bridge over Doe River, LM 0.017;
(113) Carter County, Route 0B085, Powell Road bridge over Hampton Creek, LM 0.015;
(114) Carter County, Route OC102, Hopson Road bridge over Little Doe Creek, LM 0.015;
(115) Carter County, SR-362, Gap Creek Road bridge over Gap Creek, LM 3.845;
(117) Cheatham County, Route 0A226, Dry Fork Road bridge over Dry Fork Creek, LM 2.401;
(118) Cheatham County, Route 0A235, Little Marrowbone Road bridge over Marrowbone Creek, LM 0.579;
(119) Cheatham County, Route 0A372, S. Harpeth Road bridge over Brush Creek, LM 1.267;
(120) Cheatham County, Route 0A506, Lost Hollow Lane bridge over South Harpeth River, LM 0.010;
(121) Cheatham County, I-24, truck climbing lane from LM 0.05 - LM 0.57;
(122) Cheatham County, I-24, Exit 31 ramp improvements;
(123) Cheatham County, I-40, bridge over Harpeth River (eastbound), LM 4.080;
(124) Cheatham County, I-40, bridge over Harpeth River (westbound), LM 4.080;
(125) Cheatham County, I-40, from SR-249 (Luyben Hills Road) to Cheatham-Davidson county line;
(126) Cheatham County, SR-249, Sams Creek Road bridge over Dry
(127) Cheatham County, SR-249, Jackson Felts Road bridge over New Hope Road/I-24, LM 26.020;
(128) Cheatham County, SR-49, from SR-12 to I-24 (spot improvements);
(129) Chester County, Route 01679, Talley Store Road, three bridges over Jacks Creek, LM 2.510;
(130) Chester County, Route 0A035, Sanford Road bridge over Turkey Creek, LM 0.840;
(131) Chester County, Route 0A253, Old Jacks Creek Road bridge over Jacks Creek, LM 3.581;
(132) Chester County, SR-100, bridge over South Fork Forked Deer River, LM 14.160;
(133) Chester County, SR-100, bridge over Dry Branch, LM 16.030;
(134) Chester County, SR-100, (W. Main Street) from SR-5 to Church Street (Old US-5) in Henderson;
(135) Chester, Henderson, and McNairy counties, SR-22, safety improvements from SR-69 in Milledgeville to SR-100 in Chester County;
(136) Claiborne County, Route 02503, Hoop Creek Road bridge over Hoop Creek, LM 1.580;
(137) Claiborne County, Route 0A051, Y Hollow Road bridge over Clear Fork, LM 0.057;
(138) Claiborne County, Route 0A250, Bucklick Lane bridge over Big Sycamore Creek, LM 0.356;
(139) Claiborne County, Route 0A497, Academy Road bridge over Davis Creek, LM 0.343;
(140) Claiborne County, SR-33, bridge over South Fork Sycamore Creek, LM 20.560;
(141) Claiborne County, SR-63, from Campbell County line to Hall Lane;
(142) Claiborne County, SR-63, from west of Old Town Creek to SR-32 (US-25E);
(143) Claiborne County, US-25E (SR-32), (Dixie Highway) interchange at SR-345;
(144) Clay County, Route A053, John Butler Road bridge over Proctor Branch, LM 0.160;
(145) Clay County, Route 0A210, Wet Mill Creek Road bridge over Mill Creek, LM 7.298;
(146) Cocke County, Route 01326, Morrell Springs Road bridge over I-40, LM 2.230;
(147) Cocke County, Route 02513, Briarthicket Road bridge over Knob Creek, LM 2.950;
(148) Cocke County, Route 02570, Old State Highway 32 bridge over Cosby Creek, LM 0.100;
(149) Cocke County, Route 0A055, Chemwood Drive bridge over Sinking Creek, LM 0.089;
(150) Cocke County, Route 0A136, Saint Tide Hollow Road bridge over Clear Creek, LM 0.903;
(151) Cocke County, Route 0A238, Old Long Creek Road bridge over Long Creek, LM 0.621;
(152) Cocke County, Route 0A261, Toms Creek Road bridge over Trail Fork Big Creek, LM 3.486;
(153) Cocke County, Route 0A264, Spicewood Flats Road bridge over Trail
Fork Big Creek, LM 0.050;
(154) Cocke County, Route 0A276, Stokley Cemetery Road bridge over Trail Fork Big Creek, LM 0.008;
(155) Cocke County, Route 0A277, Sterling Road bridge over Trail Fork Big Creek, LM 0.091;
(156) Cocke County, Route 0A407, Caney Creek Road bridge over Cosby Creek, LM 0.013;
(157) Cocke County, Route 0A408, Liberty Road bridge over Cosby Creek, LM 1.207;
(158) Cocke County, Route 0A445, Middle Creek Road bridge over Cosby Creek, LM 0.029;
(159) Cocke County, Route 0A447, Ball Park Road bridge over Cosby Creek, LM 0.277;
(160) Cocke County, Route 0A495, Old SR-35 bridge over Clear Creek, LM 1.140;
(161) Cocke County, Route 0A909, Briarthicket Road bridge over Nolichucky River, LM 1.113;
(162) Cocke County, I-40, interchange at O’Neil Road;
(163) Cocke County, I-40, bridge over Green Corner Road (1321), LM 21.000;
(164) Cocke County, I-40, bridge over SR-9, LM 1.800;
(165) Cocke County, I-40, ITS rural development on I-40 to state line;
(166) Cocke County, I-40, Hartford welcome center renovation;
(167) Cocke County, SR-160, bridge over Nolichucky River, LM 11.870;
(169) Cocke County, US-321 (SR-32), (Cosby Highway) from SR-73 at Cosby to Wilton Springs Road;
(170) Cocke County, US-321 (SR-35), (Newport Bypass) from US-70 (SR-9) to Saint Tide Hollow Road;
(171) Coffee County, Route 00918, Wattendorf Memorial Highway bridge over A.E.D.C. Road/I-24, LM 7.670;
(172) Coffee County, Route 01111, Cat Creek Road bridge over Crumpton Creek, LM 6.990;
(173) Coffee County, Route 0A049, W. Grundy Street bridge over North Fork Rock Creek, LM 0.174;
(174) Coffee County, Route 0A409, Norton Branch Road bridge over Norton Branch, LM 0.813;
(175) Coffee County, Route 0A440, Duncan Road bridge over Perry Creek, LM 0.902;
(176) Coffee County, Route 0B188, Camp Ground Lane bridge over Duck River (OSFSP), LM 0.030;
(177) Coffee County, SR-127, Winchester Highway bridge over Bradley Creek, LM 4.660;
(178) Coffee County, SR-55, (Wilson Avenue) from First Avenue in Tullahoma to SR-16 (US-41A) north of Jackson Street;
(179) Coffee County, US-41 (SR-2), (Hillsboro Highway) from Joe Hickerson Road to Arnold Center Road;
(180) Coffee County, US-41 (SR-2), Hillsboro Road bridge over Caney Fork and Western Railroad, LM 14.280;
(181) Crockett County, Route 0A078, Reynolds Road bridge over Pond
Creek, LM 1.082;
(182) Crockett County, Route 0A081, Beaver Road bridge over branch, LM 2.800;
(183) Crockett County, Route 0A119, Walter Taylor Road bridge over Rice Creek, LM 2.099;
(184) Crockett County, Route 0A170, Kenner Road bridge over branch, LM 0.840;
(185) Crockett County, Route 0A191, Warren Road bridge over branch of Cypress Creek, LM 1.894;
(186) Crockett County, Route 0A308, County Line Road bridge over branch, LM 0.270;
(187) Cumberland County, Route 02202, Browntown Road bridge over Pokepatch Creek, LM 3.130;
(188) Cumberland County, Route 02289, Wightman Road bridge over Duncan Creek, LM 3.590;
(189) Cumberland County, I-40, Cumberland County rest area renovation;
(190) Cumberland County, SR-462, (Northwest Connector) from US-127 (SR-28) to SR-298;
(192) Cumberland County, US-127 (SR-28), from north of I-40 to near Potato Farm Road;
(193) Cumberland County, US-127 (SR-28), from near Potato Farm Road to near Hollow Lane;
(194) Cumberland County, US-127 (SR-28), from near Hollow Lane to near Lowe Road;
(195) Cumberland County, US-70 (SR-1), Sparta Highway bridge over Obed River, LM 12.720;
(196) Cumberland County, US-70N (SR-24), West Avenue bridge over Obed River, LM 15.370;
(197) Cumberland and Fentress counties, US-127 (SR-28), (S. York Highway) from Near Lowe Road in Cumberland County to near Little Road in Clarkrange;
(198) Cumberland and Putnam counties, I-40, ITS expansion at Rockwood Mountain;
(199) Davidson County, I-24, bridge over Mill Creek, LM 23.360;
(200) Davidson County, I-24, bridge over North First Street, LM 13.970;
(201) Davidson County, I-24, bridge (left lanes) over Cumberland River; LM 15.420;
(202) Davidson County, I-24, bridge over Seven Mile Creek, LM 19.200;
(203) Davidson County, I-24, bridge (right lanes) over Old Hickory Boulevard, LM 8.510;
(204) Davidson County, I-24, bridge (left lanes) over Old Hickory Boulevard, LM 8.510;
(205) Davidson County, I-24, bridge (right lanes) over Cumberland River, LM 15.420;
(206) Davidson County, I-24, interchange modification at Hickory Hollow Parkway;
(207) Davidson County, I-24, ramp improvements at Exits 35, 40, 57, 59, and 60;
(208) Davidson County, I-24, Harding Place interchange re-configuration;
(209) Davidson County, I-24, from North First Street to Trinity Lane;
(210) Davidson County, I-24, from Old Hickory Boulevard (SR-45) to I-65, Exit 40 to Exit 44;
(211) Davidson County, I-40, SR-255 (Donelson Pike) relocation from taxiway bridges over existing Donelson Pike to I-40;
(212) Davidson County, I-40, Structure 5B bridge over I-24, LM 21.580;
(213) Davidson County, I-40, Structure 79 bridge over I-65 ramp, LM 18.390;
(214) Davidson County, I-40, bridge over Nashville and Eastern Railroad, LM 20.050;
(215) Davidson County, I-40, Structure 80 bridge over I-40 ramp, LM 18.470;
(216) Davidson County, I-40, bridge over Browns Creek, LM 20.150;
(217) Davidson County, I-40, bridge over SR-11, SR-1, and Second Avenue South, LM 18.860;
(218) Davidson County, I-40, Bridge Over Mill Creek, LM 22.350;
(219) Davidson County, I-40, Structure 13 bridge over I-65 and I-65 ramp, LM 16.140;
(220) Davidson County, I-40, from McCrory Lane (Exit 192) to just west of SR-1/US-70S (Exit 196);
(221) Davidson County, I-440, pavement replacement and safety improvements;
(222) Davidson County, I-65, bridge over abandoned railroad, LM 9.850;
(223) Davidson County, I-65, bridge over Cumberland River and Cowan Street, LM 10.240;
(224) Davidson County, SR-11/US-31W, (Dickerson Pike) from Fannin Drive to Old Stone Bridge Road to include the CSX Railroad overpass structure;
(225) Davidson County, US-31A/41A (SR-11), (Nolensville Pike) from north of Mill Creek to near SR-254 (Old Hickory Boulevard);
(226) Davidson County, US-31A/41A (SR-11), Nolensville Pike bridge over CSX Railroad, LM 10.240;
(227) Davidson County, US-31E (SR-6), Ellington Parkway bridge over CSX Railroad, LM 12.320;
(228) Davidson County, US-31E (SR-6), Gallatin Pike bridge over Man-skcer Creek, LM 22.840;
(229) Davidson County, US-41A (SR-12), from SR-12 (Ashland City Highway to SR-155 (Briley Parkway);
(230) Davidson County, US-41A (SR-12), Clarksville Pike bridge over Whites Creek, LM 0.550;
(231) Davidson County, US-431/70/70S (SR-1), (Broadway) bridge over 11th Avenue South and CSX Railroad, LM 17.290;
(232) Davidson County, US-70 (SR-24), (Charlotte Pike) from White Bridge Road to American Road;
(233) Davidson County, US-70 (SR-24), (Charlotte Pike) from American Road to I-40;
(234) Davidson County, US-70 (SR-24), (Charlotte Pike) from I-40 to Old Hickory Boulevard;
(235) Davidson, Dickson, Cheatham, Williamson, and Wilson counties, I-40, ITS expansion from US-70S (Exit 196) to I-840, and from SR-255
(Donelson Pike, Exit 216) to US-70 (Exit 239);
(236) Davidson and Rutherford counties, I-24, congestion reduction from I-40 in Davidson County to I-840 in Rutherford County;
(237) Davidson, Sumner, and Robertson counties, I-65, from Nashville to Kentucky state line;
(238) Decatur County, Route 0A295, Pete Tucker Loop bridge over Turnbo Creek, LM 0.830;
(239) DeKalb County, Route 0A095, Holmes Creek Road bridge over Fall Creek, LM 6.060;
(240) DeKalb County, Route 0A330, Old Dry Creek Road bridge over Dry Creek, LM 3.648;
(241) DeKalb and Wilson counties, US-70 (SR-26), (Nashville Highway) from west of Wilson County line to near SR-96 in DeKalb County;
(242) Dickson County, Route 01854, East Piney Road bridge over East Fork Piney River, LM 4.210;
(243) Dickson County, Route 0A177, Old Highway 47 bridge over Town Branch, LM 0.070;
(244) Dickson County, I-40, Dickson rest area renovation;
(245) Dickson County, I-840, from I-40 to SR-96;
(246) Dickson County, SR-46, Yellow Creek Road bridge over branch, LM 15.740;
(247) Dickson County, SR-46, Yellow Creek Road bridge over Yellow Creek, LM 19.060;
(248) Dyer County, Route 01495, Unionville Road bridge over overflow, LM 2.480;
(249) Dyer County, Route 0A208, Spence Spur Road bridge over drainage ditch, LM 2.370;
(250) Dyer County, Route 0A230, McGee Road bridge over slough, LM 1.090;
(251) Dyer County, Route 0A264, Hartsfield Road bridge over branch, LM 0.890;
(252) Dyer County, Route 0A282, Pace Road bridge over Mulherin Creek, LM 2.159;
(253) Dyer County, Route 0A333, Blankenship Road bridge over Mulherin Creek, LM 0.950;
(254) Dyer County, Route 0A493, Earl Carter Road bridge over McBride Creek, LM 1.550;
(255) Dyer County, Route 0A498, Meadow Road bridge over branch, LM 0.026;
(256) Dyer County, Route 0A616, Lovejoy Road bridge over drainage ditch, LM 1.000;
(257) Dyer County, I-155, Dyersburg welcome center renovation;
(258) Dyer County, SR-104, from US-412 (SR-20) in Dyersburg to east of Don Hurley Road;
(259) Dyer County, SR-104, from east of Don Hurley Road to Old SR-104 near the Gibson County line;
(260) Dyer County, SR-211, South Main Avenue bridge over overflow, LM 1.310;
(261) Dyer County, SR-211, South Main Avenue bridge over North Fork Forked Deer River, LM 1.710;
(262) Dyer County, SR-211, (West Main Street) from US-412 in Dyersburg
to SR-77 in Newbern;
(263) Fayette County, Route 00840, Old Jackson Road bridge over Big Muddy Creek, LM 6.690;
(264) Fayette County, Route 01442, La Grange Road bridge over Wolf River overflow, LM 6.220;
(265) Fayette County, Route 01442, La Grange Road bridge over branch, LM 9.390;
(266) Fayette County, Route 01454, Raleigh-La Grange Road East bridge over branch, LM 5.260;
(267) Fayette County, Route 01474, Thorpe Drive bridge over branch, LM 6.740;
(268) Fayette County, Route 01540, Yager Drive bridge over branch, LM 0.380;
(269) Fayette County, Route 01553, Old Jackson Road bridge over Bear Creek, LM 2.970;
(270) Fayette County, Route 02706, McKinstry Road bridge over overflow, LM 8.120;
(271) Fayette County, Route 0A043, Old Fifty Nine Drive bridge over branch, LM 4.157;
(272) Fayette County, Route 0A070, Tomlin Road bridge over Treadville Creek, LM 1.421;
(273) Fayette County, Route 0A091, Old Jackson Road bridge over Little Creek, LM 0.440;
(274) Fayette County, Route 0A094, Caldwell Drive bridge over London Creek, LM 0.071;
(275) Fayette County, Route 0A119, Bailey Morrison Drive bridge over Gregg Creek, LM 2.142;
(276) Fayette County, Route 0A127, Finnie Drive bridge over branch, LM 0.261;
(277) Fayette County, Route 0A129, Sardis Drive bridge over branch of North Fork Wolf River, LM 2.464;
(278) Fayette County, Route 0A136, Newcastle Drive bridge over branch of Morrow Creek, LM 1.182;
(279) Fayette County, Route 0A149, Buford Ellington Road bridge over North Fork Creek, LM 0.295;
(280) Fayette County, Route 0A204, Hayes Road bridge over Sandy Creek, LM 0.271;
(281) Fayette County, Route 0A208, Chapel Road bridge over overflow, LM 0.128;
(282) Fayette County, Route 0A232, Johnson Drive bridge over Hurricane Creek, LM 3.051;
(283) Fayette County, Route 0A235, Knox Road bridge over branch, LM 2.994;
(284) Fayette County, Route 0A257, Mebane Road bridge over drainage ditch, LM 1.214;
(285) Fayette County, Route SR-193, Macon Road bridge over branch, LM 11.480;
(286) Fayette County, Route SR-460, (Somerville Beltway) from US-64 (SR-15) west of Somerville to US-64 (SR-15) east of Somerville;
(287) Fentress County, Route 02316, Little Crab Road bridge over Little Crab Creek, LM 9.450;
(288) Fentress County, Route 0A063, Wolf River Loop bridge over Rotten Fork Wolf River, LM 0.416;
(289) Fentress County, Route 0A073, Rotten Fork Road bridge over Rotten Fork Wolf River, LM 0.135;
(290) Fentress County, Route 0A196, Glen Obey Road bridge over Rock Castle Creek, LM 4.066;
(291) Fentress County, Route 0A198, Gwinn Branch Road bridge over Rock Castle Creek, LM 0.094;
(292) Fentress County, Route 0A302, Vines Ridge Road bridge over Big Laurel Creek, LM 1.060;
(293) Fentress County, SR-85, Wilder Road bridge over East Fork Obey River, LM 5.670;
(294) Fentress County, US-127 (SR-28), (South York Highway) from near Little Road in Clarkrange to near Kilby Road;
(295) Fentress and Pickett counties, US-127 (SR-28), (South York Highway) spot improvements from north of Jamestown to SR-111;
(296) Franklin County, Route 0A406, Old Decherd Road bridge over Wagner Creek, LM 0.259;
(297) Gibson County, Route 00860, Concord-Cades Road bridge over Mays Creek, LM 6.500;
(298) Gibson County, Route 01401, Keeley Mill Road bridge over overflow, LM 3.350;
(299) Gibson County, Route 01585, Salem Church Road bridge over overflow, LM 1.360;
(300) Gibson County, Route 01592, Old Trenton-Eaton Road bridge over Branch Buck Creek, LM 8.300;
(301) Gibson County, Route 01594, Old Dyersburg Road bridge over drainage ditch, LM 7.230;
(302) Gibson County, Route 01596, New Bethlehem Road bridge over branch, LM 6.360;
(303) Gibson County, Route 0A029, Happy Hollow Road bridge over York Branch, LM 0.280;
(304) Gibson County, Route 0A044, Esquire Green Road bridge over drainage ditch/Cow Creek, LM 0.987;
(305) Gibson County, Route 0A076, Conover Needham Road bridge over Edmundson Creek, LM 1.664;
(306) Gibson County, Route 0A077, Saw Mill Lane bridge over Edmundson Creek, LM 0.380;
(307) Gibson County, Route 0A159, Robert R. Thornton Road bridge over Owen Branch, LM 1.363;
(308) Gibson County, Route 0A161, Boham Road bridge over branch of Rutherford Fork Obion, LM 2.251;
(309) Gibson County, Route 0A199, Old Dyer-Yorkville Road bridge over Sand Creek, LM 1.256;
(310) Gibson County, Route 0A211, Nee Road bridge over Cow Creek, LM 0.371;
(311) Gibson County, Route 0A215, Shanklin Road bridge over Camp Creek, LM 2.124;
(312) Gibson County, Route 0A224, Skiff Barton Road bridge over branch of Camp Creek, LM 0.470;
(313) Gibson County, Route 0A254, Wildcat Lane Road bridge over Locust
Grove Creek, LM 1.459;
(314) Gibson County, Route 0A0262, Peavine Road bridge over overflow, LM 2.050;
(315) Gibson County, Route 0A323, Idlewild-Holly Leaf Road bridge over branch of Thompson Creek, LM 2.658;
(316) Gibson County, Route 0A349, Thetford Road bridge over branch of Rutherford Fork, LM 1.390;
(317) Gibson County, Route 0A364, Powell Road bridge over ditch, LM 1.042;
(318) Gibson County, Route 0A376, Old SR-104 bridge over overflow, LM 0.097;
(319) Gibson County, Route 0A380, East Airport Road bridge over branch of North Fork Forked Deer River, LM 0.263;
(320) Gibson County, Route 0A711, Bob Hazelwood Road bridge over Hog Creek, LM 1.990;
(321) Gibson County, 0A715, Paul Price Road bridge over Wallsmith Branch, LM 1.128;
(322) Gibson County, 0A725, Casey Road bridge over Parker Branch, LM 0.604;
(323) Gibson County, 0A738, Esquire Hunt Road bridge over branch of Barnett Branch, LM 2.047;
(324) Gibson County, 0A745, Mag Duffy Road bridge over Duffy Branch, LM 1.007;
(325) Gibson County, Route 0A925, Daisy Donaldson Road bridge over branch, LM 0.795;
(326) Gibson County, Route 0A960, Quincy Butler Road bridge over branch of Middle Fork Forked Deer, LM 0.219;
(327) Gibson County, Route 0A978, Gumwoods Road bridge over branch, LM 2.350;
(328) Gibson County, Route 0A982, Gumwoods Road bridge over branch, LM 1.885;
(329) Gibson County, Route 0A982, Gumwoods Road bridge over branch, LM 2.420;
(330) Gibson County, Route 0A994, Bluff Road bridge over branch, LM 1.562;
(331) Gibson County, Route 0B009, Hicks Street extended bridge over branch of Rutherford Fork Obion River, LM 0.930;
(332) Gibson County, Route 0B010, Old Rutherford-Kenton Road bridge over branch of Rutherford Fork Obion River, LM 2.591;
(333) Gibson County, Route 0B011, Northerns Chapel Road bridge over branch, LM 1.659;
(334) Gibson County, Route 0B112, Salem Street bridge over Roe Creek in Milan, LM 0.680;
(335) Gibson and Carroll counties, US-79 (SR-76) from west of Cades-Atwood Road to east of SR-77;
(336) Gibson and Dyer counties, SR-104, (Dyersburg Highway) from Old SR-104 to west of SR-188;
(337) Giles County, Route 01900, Tarpley Shop Road bridge over Bunker Hill Road/I-65, LM 7.420;
(338) Giles County, Route 0A068, Waters Smith Road bridge over Big Creek, LM 0.020;
(339) Giles County, Route 0A177, Newman Road bridge over Indian Creek, LM 0.163;
(340) Giles County, Route 0A296, Tunnel Road bridge over CSX Railroad, LM 0.624;
(341) Giles County, Route 0A382, Booth Chapel Road bridge over Husley Creek, LM 1.839;
(342) Giles County, 0A501, Frankewing Road bridge over Bradshaw Creek, LM 0.850;
(343) Giles County, SR-166, Wales Road bridge over Richland Creek, LM 15.790;
(344) Giles County, SR-7, (Main Street) from Union Hill Road to Morrow Road in Ardmore;
(345) Giles County, US-31 (SR-7), Columbia Highway bridge over CSX Railroad, LM 27.720;
(346) Giles County, US-31 (SR-7), Columbia Highway bridge over Richland Creek, LM 28.590;
(347) Giles County, US-31A (SR-11), Lewisburg Highway bridge over Pigeon Roost Creek, LM 23.380;
(348) Grainger County, Route 02534, Little Valley Road bridge over Richland Creek, LM 0.150;
(349) Grainger County, Route 02540, Cherry Street bridge over branch, LM 0.910;
(350) Grainger County, Route 02544, Liberty Hill Road bridge over Williams Branch, LM 0.180;
(351) Grainger County, Route 0A026, Hogskin Road bridge over Hogskin Creek, LM 2.011;
(352) Grainger County, Route 0A365, Bluff Road bridge over Richland Creek, LM 0.093;
(353) Grainger County, Route 0A408, Milligan Lane bridge over Richland Creek, LM 0.686;
(354) Grainger County, SR-131, bridge over Williams Creek, LM 7.730;
(355) Grainger County, US-11W (SR-1), from west of Helton Road to Bean Station;
(356) Grainger County, US-11W (SR-1), from Rutledge to west of Helton Road;
(357) Grainger County, US-11W (SR-1), bridge over Shields Creek, LM 22.810;
(358) Grainger County, US-25E (SR-32), (Dixie Highway) off-setting intersection at SR-131;
(359) Greene County, Route 01346, Blue Springs Parkway bridge over Lick Creek, LM 0.390;
(360) Greene County, Route 03863, E. Church Street bridge over branch, LM 1.720;
(361) Greene County, Route 0A682, Paint Mountain Road bridge over Lower Paint Creek, LM 4.987;
(362) Greene County, Route 0A759, Links Mill Road bridge over Richland Creek, LM 0.033;
(363) Greene County, I-81, Greene County rest area renovation;
(364) Greene County, US-11E (SR-34), (Greeneville Bypass) from US-11E west of Greeneville to US-11E east of Greeneville;
(365) Greene County, US-321(SR-35), (Newport Highway) from north of
Cocke County line to north of Nolichucky River (Bright Hope Road);
(366) Greene County, US-321 (SR-35), (Newport Highway) from north of
Nolichucky River near Bright Hope Road to south of SR-349 (Warrensburg
Road) near Pates Lane;
(367) Greene County, US-321 (SR-35), (Newport Highway) from SR-349
(Warrensburg Road) near Pates Lane to SR-34 (US-11E);
(368) Greene County, US-321 (SR-35), Newport Highway bridge over
Nolichucky River, LM 3.070;
(369) Grundy County, Route 0A430, Stella Scruggs Road bridge over
Pepper Hollow Branch, LM 0.092;
(370) Grundy County, SR-50, (Pelham Road) from mile marker 8.0, 7.5
miles east of I-24 (Exit 127), to mile marker 11.0;
(371) Hamblen County, Route 0A251, Britt Lane Road bridge over Spring
Branch, LM 0.025;
(372) Hamblen County, Route 0A314, Brights Pike bridge over Spring
Creek, LM 0.154;
(373) Hamblen County, SR-160, Enka Highway bridge over overflow, LM
0.140;
(374) Hamblen County, US-11E (SR-34), (E. Andrew Johnson Highway)
from west of Old Stagecoach Road in Russellville to Steadman Road;
(375) Hamblen County, US-11E (SR-34), (E. Andrew Johnson Highway)
from US-25E (SR-32) in Morristown to near East Morris Boulevard;
(376) Hamblen County, US-11E (SR-34), (E. Andrew Johnson Highway)
from near East Morris Boulevard to west of Old Stagecoach Road in
Russellville;
(377) Hamblen and Hawkins counties, US-11E (SR-34), (Andrew Johnson
Highway) from Steadman Road to I-81;
(378) Hamilton County, I-24, interchange modification of I-24 and SR-2
(Broad Street) / SR-58 (Market Street);
(379) Hamilton County, I-24, from I-59 to US-27;
(380) Hamilton County, I-24, bridge over SR-27 (Rossville Boulevard), LM
9.000;
(381) Hamilton County, I-24, eastbound bridge over SR-2 (Broad Street),
LM 8.00;
(382) Hamilton County, I-24, bridge over I-24 ramp to Central Avenue,
LM 8.820;
(383) Hamilton County, I-24, bridge over Germantown Road (FAU 3577),
LM 12.080;
(384) Hamilton County, I-24, eastbound and westbound bridge over A643
Williams, LM 8.000;
(385) Hamilton County, I-24, bridge over Southern Railway (abandoned),
LM 10.360;
(386) Hamilton County, I-75, interchange modification at I-24;
(387) Hamilton County, I-75, interchange modification at Hamilton Place
Mall;
(388) Hamilton County, SR-17, Bonny Oaks Drive bridge over Chickamauga
Creek, LM 8.200;
(389) Hamilton County, SR-317, (Bonny Oaks Drive) from SR-17 to
Industry Drive;
(390) Hamilton County, SR-317, (Bonny Oaks Drive) from Industry Drive
to Adamson Circle;
(391) Hamilton County, SR-317, (Bonny Oaks Drive) from Adamson Circle to west of Bonnyshire Drive;
(392) Hamilton County, SR-317, (Bonny Oaks Drive) from west of Bonnyshire Drive to I-75;
(393) Hamilton County, SR-317, from SR-321 (Ooltewah-Ringgold Road) to near Layton Lane;
(394) Hamilton County, SR-317, from near Layton Lane to East Brainerd Road in Chattanooga;
(395) Hamilton County, SR-320, from east of Bel-Air Road to SR-321 (Ooltewah-Ringgold Road);
(396) Hamilton County, SR-320, E. Brainerd Road bridge over CSX Railroad, LM 0.860;
(397) Hamilton County, SR-321, from SR-317 (Apison Pike) to SR-320 (East Brainerd Road);
(398) Hamilton County, US-127 (SR-8), from SR-27 Suck Creek Road to north of Palisades Drive (Mountain Road);
(399) Hamilton and Bradley counties, I-75, from north of US-64 to US-74;
(400) Hancock County, SR-33, Main Street bridge over Greasy Rock Creek, LM 11.770;
(401) Hardeman County, Route 00865, Sain Road bridge over Spring Creek, LM 13.070;
(402) Hardeman County, Route 00869, Powell Chapel Road bridge over Hatchie River, LM 7.920;
(403) Hardeman County, Route 02320, Old Highway 64 bridge over branch, LM 2.530;
(404) Hardeman County, Route 0A191, Newstead Drive bridge over branch, LM 0.157;
(405) Hardeman County, Route 0A230, Kennedy Road bridge over branch, LM 2.590;
(406) Hardeman County, Route 0A338, Howell Road bridge over Wade Creek, LM 0.104;
(407) Hardeman County, SR-100, bridge over branch, LM 4.340;
(408) Hardeman County, SR-125, Silerton Road bridge over branch, LM 29.690;
(409) Hardeman County, SR-458, (Bolivar Bypass) from US-64 (SR-15) west of Bolivar to east of SR-18;
(410) Hardeman County, SR-458, (Bolivar Bypass) from east of SR-18 to west of Old Middleton Road;
(411) Hardeman County, US-64 (SR-15), bridge over overflow, LM 14.590;
(412) Hardeman County, US-64 (SR-15), bridge over Spring Creek, LM 14.710;
(413) Hardeman and Madison counties, SR-18, from SR-100 in Hardeman County to north of Medon/Malesus Road;
(414) Hardin County, Route 01723, Burnt Church Road bridge over Little Turkey Creek, LM 2.220;
(415) Hardin County, Route 01754, Fellowship Road bridge over Middleton Creek, LM 0.020;
(416) Hardin County, Route 02702, Big Ivy Road bridge over Whites Creek, LM 0.100;
(417) Hardin County, Route 05561, Campbell Old Mill Road bridge over Chambers Creek, LM 0.900;
(418) Hardin County, Route 0A048, Marshall Drive bridge over Chalk Creek, LM 2.206;
(419) Hardin County, Route 0A081, Hurricane Drive bridge over drainage ditch, LM 0.697;
(420) Hardin County, Route 0A098, Lebanon Loop bridge over Flats Creek, LM 0.683;
(421) Hardin County, Route 0A232, Irvin Road bridge over Choate Creek, LM 0.188;
(422) Hardin County, Route 0A286, Hatley Loop bridge over Hatley Creek, LM 1.127;
(423) Hardin County, Route 0A292, First Pittsburg Drive bridge over Mud Creek, LM 7.948;
(424) Hardin County, Route 0A308, Nichols Drive bridge over Horse Creek, LM 0.195;
(425) Hardin County, SR-128, from SR-226 (Airport Road) to south of One Stop Drive;
(426) Hardin County, SR-128, from Pyburn Road to SR-226 (Airport Road);
(427) Hardin County, SR-128, bridge over Tennessee River (Pickwick Dam), LM 0.840;
(428) Hawkins County, Route 0A005, Old Highway 11W bridge over Cloud Creek, LM 1.876;
(429) Hawkins County, Route 0A352, AFG Road bridge over Southern Railway, LM 0.447;
(430) Hawkins County, Route 0A682, Brown Road bridge over Beech Creek, LM 0.017;
(431) Hawkins County, Route 0A765, Walkers Church Road bridge over Robertson Creek, LM 0.813;
(432) Hawkins County, Route 0A922, S. Armstrong Road bridge over Crockett Creek, LM 0.265;
(433) Hawkins County, SR-31, (Flat Gap Road) from Mooresburg to Adams Lane;
(434) Hawkins County, SR-31, bridge over Poor Valley Creek, LM 4.170;
(435) Hawkins County, SR-346, E. Main Street bridge over Surgoinsville Creek, LM 3.900;
(436) Hawkins County, SR-66, from SR-34 in Bulls Gap to south of Speedwell Road / Old Highway 66;
(437) Hawkins County, SR-70, bridge over Southern Railway, LM 6.190;
(438) Hawkins County, SR-70, bridge over Caney Creek, LM 8.910;
(439) Hawkins County, US-11W (SR-1), W. Stone Drive bridge (right lane) over North Fork Holston River, LM 41.300;
(440) Hawkins County, US-11W (SR-1), W. Stone Drive bridge (left lane) over North Fork Holston River, LM 41.300;
(441) Haywood County, Route 00857, Mt. Pleasant Road bridge over Richland Creek, LM 0.100;
(442) Haywood County, Route 01482, Nunn Road bridge over District Branch, LM 0.800;
(443) Haywood County, Route 0A035, Toulon Road bridge over branch, LM 0.544;
(444) Haywood County, Route 0A040, Garrett Road bridge over Lost Creek, LM 0.751;
(445) Haywood County, Route 0A076, Gillispie Road bridge over branch, LM 0.293;
(446) Haywood County, Route 0A096, Sturdivant Road bridge over branch, LM 0.730;
(447) Haywood County, Route 0A152, Estanaula Road bridge over branch, LM 3.480;
(448) Haywood County, Route 0A157, Coburn Road bridge over branch, LM 3.220;
(449) Haywood County, SR-19, (Brownsville Bypass) from east of SR-87 to west of Windrow Road;
(450) Haywood County, SR-19, from Lauderdale County line to east of Binford Road;
(451) Haywood County, SR-19, from east of Binford Road to east of Bobby Mann Road;
(452) Haywood County, SR-19, from east of Bobby Mann Road to east of SR-87;
(453) Haywood County, US-70 (SR-1), bridge over branch, LM 2.890;
(454) Haywood County, US-70 (SR-1), bridge over Muddy Creek, LM 2.130;
(455) Haywood County, Route 01443, Stanton Koko Road bridge over Prairie Creek, LM 2.540;
(456) Henderson County, Route 0A238, Wake Forest Road bridge over Big Hurricane Drainage, LM 0.300;
(457) Henderson County, Route 0A264, Belton Robison Road bridge over Beech River, LM 1.825;
(458) Henderson County, Route 0A266, Rock Hill Road bridge over Haley Creek, LM 0.406;
(459) Henderson County, Route 0A327, Dyer Road bridge over Middle Prong Doe Creek, LM 0.338;
(460) Henderson County, SR-459, (Lexington Bypass) from US-412 (SR-20) west of Lexington to SR-22 south of Lexington;
(462) Henry County, Route 01715, Shady Grove Road bridge over Thompson Creek, LM 2.210;
(463) Henry County, Route 01715, Shady Grove Road bridge over Holley Fork Creek, LM 7.290;
(464) Henry County, Route 0A058, Birds Creek Road bridge over Birds Creek, LM 3.091;
(465) Henry County, Route 0A072, Goldston Springs Road bridge over Clear Creek, LM 1.632;
(466) Henry County, Route 0A113, Terrapin Creek Road bridge over Sugar Creek, LM 2.574;
(467) Henry County, Route 0A113, Terrapin Creek Road bridge over branch, LM 3.890;
(468) Henry County, Route 0A118, Kuykendall Road bridge over Sandy Branch, LM 0.480;
(469) Henry County, Route 0A210, Red Top Hill Road bridge over Blood River, LM 2.080;
(470) Henry County, Route 0A434, Hagler Ridge Road bridge over Clendon Creek, LM 1.370;
(471) Henry County, Route 0A572, Gum Springs Road bridge over Middle Fork Obion River, LM 1.139;
(472) Henry County, US-641 (SR-54), from near Smith Road to Kentucky state line;
(473) Hickman County, Route 00942, Cane Creek Road bridge over Cane Creek, LM 3.210;
(474) Hickman County, Route 00961, Goodrich Road bridge over Bird Creek, LM 6.150;
(475) Hickman County, Route 00961, Goodrich Road bridge over branch, LM 5.900;
(476) Hickman County, Route 01846, Tottys Bend Road bridge over Arnold Branch, LM 2.650;
(477) Hickman County, Route 01846, Tottys Bend Road bridge over Duck River, LM 5.730;
(478) Hickman County, Route 01848, Grays Bend Road bridge over Haley Creek, LM 1.810;
(479) Hickman County, Route 0A100, S. Tatum Creek Road bridge over Tatum Creek, LM 0.136;
(480) Hickman County, Route 0A104, Tom Patton Road bridge over Jones Creek, LM 2.883;
(481) Hickman County, Route 0A128, Friendship Lane bridge over Mill Creek, LM 0.909;
(482) Hickman County, Route 0A170, Washer Road bridge over Mill Creek, LM 0.010;
(483) Hickman County, Route 0A176, Baker Hollow Road bridge over Little Spring Creek, LM 1.539;
(484) Hickman County, Route 0A270, Ugly Creek Road bridge over Blue Buck Creek, LM 5.142;
(485) Hickman County, Route 0A325, W. Beaverdam Road bridge over Beaver Dam Creek, LM 4.360;
(486) Hickman County, Route 0A325, W. Beaverdam Road bridge over Wades Branch, LM 4.135;
(487) Hickman County, Route 0A330, Spring Road bridge over Indian Creek, LM 0.060;
(488) Hickman County, Route 0A366, E. Plunders Creek Road bridge over Piney River, LM 2.157;
(489) Hickman County, Route 0A542, Briar Pond Road bridge over Blowing Springs, LM 7.487;
(490) Hickman County, Route 0A756, Barnhill Lane bridge over Haley Creek, LM 0.040;
(491) Hickman County, Route 0A802, Yates Lane bridge over Garner Creek, LM 0.080;
(492) Hickman County, SR-100, SR-48 intersection improvements;
(493) Hickman and Dickson counties, SR-46, from I-40 to the intersection of SR-100 and SR-7;
(494) Hickman County, SR-50, bridge over Duck River, LM 30.550;
(495) Hickman County, SR-50, Minnie Pearl Memorial Highway bridge over Duck River, LM 17.180;
(496) Houston County, Route 01783, Tank Hill Road bridge over Erin Branch, LM 8.390;
(497) Houston County, Route 0A018, Hurricane Landing Road bridge over
Hurricane Creek, LM 1.107;
(498) Houston County, Route 0A410, Carl Norfleet Lane bridge over Pollard Branch, LM 0.090;
(499) Houston County, SR-49, safety improvements from SR-13 to SR-46;
(500) Houston County, SR-49, E. Main Street bridge over Wells Creek, LM 5.870;
(501) Humphreys County, Route 00910, Bakerville Road bridge over Duck River, LM 15.710;
(502) Humphreys County, Route 01779, Indian Creek Road bridge over Hurricane Creek, LM 7.430;
(503) Humphreys County, Route 01794, Cuba Landing Road bridge over North Fork Blue Creek, LM 0.100;
(504) Humphreys County, Route 0A058, Hemby Cemetery Lane bridge over Hemby Branch, LM 0.075;
(505) Humphreys County, Route 0A124, Patrick Road bridge over White Oak Creek, LM 0.034;
(506) Humphreys County, Route 0A144, Dry Hollow Road bridge over branch, LM 1.647;
(507) Humphreys County, Route 0A171, Smith Branch Road bridge over White Oak Creek, LM 0.036;
(508) Humphreys County, Route 0A223, Lee Lane bridge over Indian Creek, LM 0.052;
(509) Humphreys County, Route 0A239, Tumbling Creek Road bridge over Tumbling Creek, LM 2.020;
(510) Humphreys County, Route 0A239, Tumbling Creek Road bridge over Tumbling Creek, LM 3.142;
(511) Humphreys County, Route 0A276, Tatem Lane bridge over Blue Creek, LM 0.092;
(512) Humphreys County, Route 0A279, Weed Lane bridge over Blue Creek, LM 0.170;
(513) Humphreys County, Route 0A281, Crockett Murphree Lane bridge over I-40, LM 0.031;
(514) Humphreys County, Route 0A341, Cedar Grove Road bridge over Hurricane Creek, LM 0.492;
(515) Humphreys County, I-40, bridge (left lanes) over Buffalo River, LM 6.260;
(516) Humphreys County, I-40, bridge (right lanes) over Buffalo River, LM 6.260;
(517) Humphreys County, SR-13, from the Perry County line to I-40;
(518) Humphreys County, SR-13, N. Church Street bridge over SR-13 / Trace Creek, LM 19.350;
(519) Humphreys County, SR-13, bridge over Black Branch, LM 3.540;
(520) Jackson County, Route 0A021, Cox Hollow Road bridge over Wartrace Creek, LM 0.500;
(521) Jackson and Putnam counties, SR-96, (Martin Creek Rd.) from SR-53 to US-70N (SR-24) (spot improvements; safety improvements);
(522) Jefferson County, Route 01430, Spring Creek Road bridge over Long Creek, LM 0.180;
(523) Jefferson County, Route 02453, Lost Creek Road bridge over Lewis Creek, LM 7.540;
(524) Jefferson County, Route 02457, Witt Road bridge over Long Creek,
LM 0.130;
(525) Jefferson County, Route 02500, Zirkle Road bridge over Koontz Creek, LM 1.390;
(526) Jefferson County, Route 02510, Mine Road bridge over Lost Creek, LM 0.100;
(527) Jefferson County, Route 02510, Mine Road bridge over Lost Creek, LM 1.880;
(528) Jefferson County, Route 02516, Bell Road bridge over Carter Creek, LM 1.370;
(529) Jefferson County, Route 0A082, Day Road bridge over Lost Creek, LM 1.870;
(530) Jefferson County, Route 0A482, Hebron Church Road bridge over Dumplin Creek, LM 0.032;
(531) Jefferson County, Route 0A579, Carmichael Road bridge over Long Creek, LM 0.362;
(532) Jefferson County, Route 0A897, Seahorn Road bridge over Lost Creek, LM 0.046;
(533) Jefferson County, I-40, bridge over French Broad River, LM 14.700;
(534) Jefferson County, I-81, I-40 to SR-341 Roy Messer Highway;
(535) Jefferson County, I-81, bridge over ramp to I-40 (right lane only), LM 0.270;
(538) Johnson County, Route 0A064, Stage Coach Loop bridge over Doe Creek, LM 0.103;
(539) Johnson County, Route 0A296, Forge Creek Circle bridge over Forge Creek, LM 0.240;
(540) Johnson County, Route 0A375, Slimp Branch Road bridge over Roan Creek, LM 0.336;
(541) Johnson County, Route 0A409, Little Dry Run Road bridge over Roan Creek, LM 4.350;
(542) Johnson County, SR-91, from near Cold Springs Road to the Virginia state line;
(543) Knox County, Route 0C899, Jackson Avenue bridges over ramp to Gay Street / Ground at LM 0.24 and LM 0.26 in Knoxville, LM 0.240;
(544) Knox County, I-275, bridge over Elm Street, LM 0.390;
(545) Knox County, I-40, interchange with I-275 (I-40 westbound approach);
(546) Knox County, I-40, bridge over Wesley Road, LM 12.850;
(547) Knox County, I-40, bridge (left lanes) over 17th Street, LM 18.300;
(548) Knox County, I-75, interchange at I-640/275 (Sharps Gap);
(549) Knox County, I-75, from Emory Road (SR-131) to Raccoon Valley Road (SR-170);
(550) Knox County, I-75, ITS expansion from mile marker 109.6 to just before SR-61 (Exit 122);
(551) Knox County, SR-1/SR-332, (Kingston Pike) intersection with SR-332 (Northshore Drive);
(552) Knox County, SR-131, (E. Emory Road) from SR-331 to SR-33;
(553) Knox County, SR-162, (Pellissippi Parkway) interchange at SR-62
(Oak Ridge Highway) in Solway;
(554) Knox County, SR-322, S. Northshore Drive bridge over Sinking Creek, LM 2.190;
(555) Knox County, SR-62, (Oak Ridge Highway) from Schaad Road to SR-131;
(556) Knox County, US-129 (SR-115), (Alcoa Highway) from north of Little River to north of Maloney Road;
(557) Knox County, US-129 (SR-115), (Alcoa Highway) from Woodson Drive to Cherokee Trail interchange;
(558) Knox, Blount, and Sevier counties, SR-71/US-441, (Chapman Highway) Blount Avenue to SR-338 (Boyd's Creek Highway) in Seymour, operations and safety improvements (multiple locations);
(559) Knox and Sevier counties, I-40, ITS expansion from Strawberry Plains Pike (Exit 398) interchange to SR-66 (Sevierville, Exit 407) interchange;
(560) Lake County, Route 02155, Free Bridge Road bridge over Running Reelfoot Bayou, LM 5.930;
(561) Lake and Obion counties, SR-21, from SR-78 to SR-22;
(562) Lauderdale County, Route 00821, Twin Rivers Road bridge over overflow, LM 2.320;
(563) Lauderdale County, Route 00821, Twin Rivers Road bridge over overflow, LM 2.660;
(564) Lauderdale County, Route 00823, Lawrence Road bridge over Sumrow Creek, LM 2.300;
(565) Lauderdale County, Route 04495, Unionville Road bridge over Chambers Branch, LM 2.280;
(566) Lauderdale County, Route 0A064, Faye Barfield Road bridge over branch of Hatchie River, LM 0.718;
(567) Lauderdale County, Route 0A081, Chisholm Lake Road bridge over Cold Creek, LM 4.630;
(568) Lauderdale County, Route 0A094, Sutton Road bridge over branch, LM 1.076;
(569) Lauderdale County, Route 0A099, Dr. Lewis Road bridge over branch, LM 2.631;
(570) Lauderdale County, Route 0A110, Turkey Hill Road bridge over branch, LM 1.757;
(571) Lauderdale County, Route 0A121, Dee Webb Road bridge over Knob Creek, LM 3.812;
(572) Lauderdale County, Route 0A140, Olds Road bridge over branch, LM 1.909;
(573) Lauderdale County, Route 0A142, Key Corner Road bridge over branch, LM 1.915;
(574) Lauderdale County, Route 0A257, Coon Dance Road bridge over branch, LM 0.393;
(575) Lauderdale County, Route 0A257, Coon Dance Road bridge over branch, LM 0.440;
(576) Lauderdale County, Route 0A291, Parchman Road bridge over branch, LM 0.627;
(577) Lauderdale County, Route 0A291, Parchman Road bridge over branch, LM 1.557;
(578) Lauderdale County, Route 0A316, John Moorer Road bridge over
branch, LM 4.540;
(579) Lauderdale County, Route 0A316, John Moorer Road bridge over overflow, LM 4.410;
(580) Lauderdale County, Route 0A523, Old Brownsville Road bridge over branch, LM 1.417;
(581) Lauderdale County, I-69, from south of SR-87 to south of SR-19;
(582) Lauderdale County, I-69, from south of SR-19 to south of Coffee Shop Road;
(583) Lauderdale County, I-69, from south of Coffee Shop Road to south of Dry Hill Road;
(584) Lauderdale County, I-69, from south of Dry Hill Road to north of SR-88;
(585) Lauderdale County, SR-19, from east of Eastland Avenue to Haywood County line;
(586) Lauderdale County, SR-87, bridge over overflow, LM 3.880;
(587) Lauderdale County, Route 0A164, Kellar Avenue bridge over Hyde Creek in Ripley, LM 1.070;
(588) Lauderdale and Tipton counties, I-69, from Leigh's Chapel Road to south of SR-87;
(589) Lawrence County, Route 01426, Busby Road bridge over Shoal Creek, LM 6.240;
(590) Lawrence County, Route 0A197, Pleasant Valley Road bridge over Dry Weakley Creek, LM 1.073;
(591) Lewis County, Route 0A098, Sickler Road bridge over Buffalo River, LM 0.331;
(592) Lincoln County, Route 01967, Wells Lee Road bridge over Big Huckleberry Creek, LM 4.670;
(593) Lincoln County, Route 0A001, Steelman Road bridge over East Fork Mulberry Creek, LM 0.275;
(594) Lincoln County, Route 0A165, Providence Road bridge over branch, LM 0.059;
(595) Lincoln County, Route 0A187, Providence Road bridge over Mulberry Creek, LM 3.200;
(596) Lincoln County, Route 0A405, Kidd Lane bridge over Elk River, LM 2.000;
(597) Lincoln County, US-231/431 (SR-10), (Huntsville Highway) from south of Elk River to the intersection of SR-110;
(598) Loudon County, Route 01251, Sugar Limb Road bridge over I-75, LM 7.860;
(599) Loudon County, Route 0A808, Elm Street bridge over Bacon Creek, LM 0.169;
(600) Loudon County, I-40, bridge over I-75 (northbound lanes), LM 4.510;
(601) Loudon County, I-75, from Pond Creek Road (SR-323) to the I-40/I-75 junction;
(602) Macon County, Route 02087, Sycamore Valley Road bridge over branch, LM 1.100;
(603) Macon County, SR-56, various safety projects;
(604) Madison County, Route 00868, Mifflin Road bridge over branch, LM 3.840;
(605) Madison County, Route 00870, Collins Road bridge over Cobb Creek, LM 2.120;
(606) Madison County, Route 03043, Airways Boulevard bridge over branch, LM 1.050;
(607) Madison County, Route 03058, Jackson Street bridge over West Tennessee Railroad, LM 0.290;
(608) Madison County, Route 0A092, Turner Loop bridge over branch, LM 0.646;
(609) Madison County, Route 0A166, George Anderson Road bridge over overflow, LM 3.286;
(610) Madison County, Route 0A224, Walter Helms Cut-Off Road bridge over branch, LM 0.999;
(611) Madison County, Route 0A310, John Brown Road bridge over branch, LM 0.418;
(612) Madison County, Route 0A364, Agins Road bridge over overflow, LM 0.178;
(613) Madison County, Route 0A386, Vinson Road bridge over overflow, LM 0.640;
(614) Madison County, Route 0A538, Hicks Avenue bridge over Bond Creek, LM 0.033;
(615) Madison County, Route 0A603, First Street bridge over Anderson Branch, LM 0.260;
(616) Madison County, Route 0A980, Westover Road bridge over Anderson Branch, LM 0.522;
(617) Madison County, Route 0A980, Westover Road bridge over overflow, LM 0.338;
(618) Madison County, Route 0A980, Westover Road bridge over overflow, LM 0.623;
(619) Madison County, Route 0A980, Westover Road bridge over overflow, LM 0.728;
(620) Madison County, I-40, from east of SR-5 (US-45) to SR-1 (US-70) in Jackson;
(621) Madison County, I-40, from west of US-412 (SR-20, Hollywood Drive) to west of US-45 Bypass (SR-186);
(622) Madison County, I-40, ITS expansion in the Jackson area;
(623) Madison County, SR-152, Law Road bridge over I-40, LM 7.830;
(624) Madison County, SR-18, (Bolivar Highway) from north of Medon/ Malesus Road to US-45 (SR-5) in Jackson;
(625) Madison County, Route SR-223, Shady Grove Road bridge over branch, LM 2.280;
(626) Madison County, US-45 Bypass (SR-186), (Southern Bypass) SR-186 from SR-1 (Airways Boulevard) to SR-5 (South Highland Avenue) in Jackson;
(627) Marion County, Route 02153, Orme Road bridge over Dry Creek, LM 0.580;
(628) Marion County, SR-156, approximately one mile west of Cedar Avenue in South Pittsburg to approximately 1.7 miles west;
(629) Marion County, US-64/72 (SR-2), from Kimball to Jasper;
(630) Marshall County, Route 0A273, E. Hill Avenue bridge over CSX Railroad, LM 0.408;
(631) Marshall County, SR-130, High Street bridge over Cane Creek, LM 0.040;
(632) Marshall County, US-31A (SR-11), Nashville Highway bridge over
Rock Creek, LM 13.180;
(633) Marshall County, Route 0A261, Hatchett Road bridge over Hatchett River in Cornersville, LM 0.120;
(634) Maury County, Route 01897, Howard Bridge Road bridge over Duck River, LM 2.530;
(635) Maury County, Route 01916, Bigbyville Road bridge over Little Bigby Creek, LM 0.090;
(636) Maury County, Route 01924, Seavy Hight Road bridge over Fountain Creek, LM 1.070;
(637) Maury County, Route 02733, Lawrenceburg Highway bridge over Rattlesnake Falls Branch, LM 2.090;
(638) Maury County, Route 02733, Lawrenceburg Highway bridge over Tennessee Southern Railway, LM 3.180;
(639) Maury County, Route 03194, N. James M. Campbell Boulevard bridge over Tennessee Southern Railway, LM 0.890;
(640) Maury County, Route, 04624, Mt. Olivet Road bridge over Bear Creek, LM 0.050;
(641) Maury County, Route 0A048, Vestal Hollow Road bridge over Leipers Creek, LM 0.036;
(642) Maury County, Route 0A051, Martin Ervin Road bridge over Leipers Creek, LM 0.123;
(643) Maury County, Route 0A064, Roberts Bend Lane bridge over Knob Creek, LM 7.383;
(644) Maury County, Route 0A064, Roberts Bend Road bridge over Duck River, LM 3.760;
(645) Maury County, Route 0A068, Algie Sewell Road bridge over Leipers Creek, LM 1.191;
(646) Maury County, Route 0A161, Cranford Hollow Road bridge over branch, LM 0.318;
(647) Maury County, Route 0A163, Martin Drive bridge over Lytle Creek, LM 0.721;
(648) Maury County, Route 0A177, Carpenter Bridge Road bridge over Pumpkin Creek, LM 0.415;
(649) Maury County, Route 0A189, Daimwood Road bridge over Cedar Creek, LM 0.297;
(650) Maury County, Route 0A326, Martin Hollow Road bridge over Campbell Station Branch, LM 1.132;
(651) Maury County, Route 0A326, Martin Hollow Road bridge over South Fork Fountain Creek, LM 0.038;
(652) Maury County, Route 0A358, Old Highway 43 bridge over Big Bigby Branch, LM 0.423;
(653) Maury County, Route 0A381, Arrow Mines Road bridge over Sugar Creek, LM 0.101;
(654) Maury County, Route 0A408, Ashwood Road bridge over Big Bigby Creek, LM 1.311;
(655) Maury County, Route 0A412, Roy Thompson Road bridge over Dog Branch, LM 0.756;
(656) Maury County, Route 0A424, Curry Branch Road bridge over Baptist Creek, LM 2.148;
(657) Maury County, Route 0A570, Old Sowell Mill Pike bridge over Duck River, LM 1.050;
(658) Maury County, Route 0B021, Craig Bridge Road bridge over Duck River, LM 0.739;
(659) Maury County, Route 0B310, Old Sowell Mill Pike bridge over Cedar Creek, LM 1.567;
(660) Maury County, Route 0B561, John Lunn Road bridge over Aenon Creek, LM 0.566;
(661) Maury County, Route 0B625, Jones Valley Road bridge over branch, LM 0.010;
(662) Maury County, I-65, US-412 (SR-99) interchange modification;
(663) Maury County, SR-243, N. Main Street bridge over Sugar Creek, LM 2.060;
(664) Maury County, SR-247, Snow Creek Road bridge over Leipers Creek, LM 1.050;
(665) Maury and Lewis counties, SR-166, from west of US-43 (SR-6) to US-412 (SR-99) at Lewis County line;
(666) Maury and Williamson counties, US-31 (SR-6), (Main Street / Columbia Pike) from Duplex Road in Spring Hill to I-840 in Thompson's Station;
(667) McMinn County, I-75, interchange improvements at SR-30 and SR-305 (ramp terminals and signals);
(668) McMinn County, SR-163, Etowah Road bridge over Conasauga Creek, LM 13.710;
(669) McMinn County, SR-39, bridge over Middle Creek, LM 13.350;
(670) McNairy County, Route 01657, Butler Chapel Road bridge over Indian Creek, LM 6.490;
(671) McNairy County, Route 0A658, Mt. Vinson Road bridge over Clear Creek, LM 1.820;
(672) McNairy County, SR-57, bridge over overflow, LM 8.500;
(673) McNairy County, SR-57, bridge over branch, LM 8.850;
(674) McNairy County, US-64 (SR-15), Court Avenue bridge over Cypress Creek, LM 11.630;
(675) Meigs County, Route 0A022, Big Sewee Road bridge over Sewee Creek, LM 1.058;
(676) Meigs County, Route 0A733, W. Memorial Drive bridge over Decatur Branch, LM 0.370;
(677) Monroe County, Route 01139, Mt. Pleasant Road bridge over Mulberry Creek, LM 10.000;
(678) Monroe County, Route 02344, Povo Road bridge over North Fork Notchy Creek, LM 1.890;
(679) Monroe County, Route 02344, Povo Road bridge over North Fork Notchy Creek, LM 2.570;
(680) Monroe County, SR-322, (Sweetwater Vonore Road) from Sweetwater-Vonore Road to Sheppard Road;
(681) Monroe County, SR-322, (Sweetwater Vonore Road) from Sheppard Road to SR-72;
(682) Monroe County, US-11 (SR-2), S. Main Street bridge over Sweetwater Creek, LM 2.280;
(683) Montgomery County, Route 00975, Dotsonville Road bridge over Cummings Creek, LM 7.900;
(684) Montgomery County, Route 01861, Budds Creek Road bridge over Budds Creek, LM 2.800;
(685) Montgomery County, Route 01863, Cooper Creek Road bridge over branch, LM 1.800;
(686) Montgomery County, Route 01888, Shady Grove Road bridge over McAdoo Creek, LM 6.670;
(687) Montgomery County, Route 03148, Dunbar Cave Road bridge over branch, LM 1.270;
(688) Montgomery County, Route 0A009, Sulphur Springs Road bridge over Sulphur Branch, LM 1.568;
(689) Montgomery County, Route 0A089, Ringgold Road bridge over Illinois Central Railroad (removed), LM 1.023;
(690) Montgomery County, Route 0A394, Akin Road bridge over Louise Creek, LM 1.294;
(691) Montgomery County, I-24, from Tennessee-Kentucky state line to SR-76 (Exit 11);
(692) Montgomery County, I-24, Clarksville welcome center renovation;
(693) Montgomery County, SR-13, Kraft Street bridge over Illinois Central Railroad (removed), LM 19.890;
(694) Montgomery County, SR-149/374, from Dotsonville Road to SR-149, SR-149 from SR-374 to River Road;
(695) Montgomery County, SR-374, from Dotsonville Road to US-79 (SR-76);
(696) Montgomery County, SR-48, (Trenton Road) from SR-374 to I-24;
(697) Moore County, Route 0A083, Turkey Creek Loop bridge over Turkey Creek, LM 0.522;
(698) Moore County, SR-55, from intersection of Goodbranch Road to Moore County High School;
(699) Moore County, SR-55, (Lynchburg Highway) passing lane from the intersection at Riddle Road to the Five Points Road intersection;
(700) Morgan County, Route 02378, Camp Austin Road bridge over Hall Branch, LM 8.610;
(701) Morgan County, Route 0A019, Sexton Loop bridge over Whiteoak Creek, LM 1.882;
(702) Morgan County, Route 0A153, Hebbertburg Road bridge over Island Creek, LM 5.888;
(703) Morgan County, Route 0A253, Macedonia Road bridge over Emory River, LM 7.800;
(704) Morgan County, Route 0A409, Wildlife Management Area Road bridge over Island Creek, LM 10.271;
(705) Morgan County, Route 0A413, Frozen Head State Park Road bridge over Flat Fork Creek, LM 0.006;
(706) Morgan County, SR-116, Petros Highway bridge over Stockstill Creek, LM 2.260;
(707) Morgan County, SR-116, Petros Highway bridge over Stockstill Creek, LM 2.600;
(708) Morgan County, SR-298, Genesis Road bridge over Clear Creek, LM 6.050;
(709) Morgan County, SR-62, (Knoxville Highway) from Oliver Springs to near Petit Lane;
(710) Morgan County, US-27 (SR-29), from north of SR-328 to north of Ray Cross Road / Mossy Grove Road (formerly Westminster Road);
(711) Morgan County, US-27 (SR-29), from north of Ray Cross Road /
Mossy Grove Road (formerly Westminster Road) to SR-62 in Wartburg;
(712) Morgan County, US-27 (SR-29), Morgan County Highway bridge over Massingale Creek, LM 26.140;
(713) Obion County, Route 01433, S. Bluff Road bridge over Browns Creek, LM 4.275;
(714) Obion County, Route 01524, W. Black Lane Road bridge over Mill Creek, LM 1.230;
(715) Obion County, Route 01525, Simmons Road bridge over overflow, LM 2.210;
(716) Obion County, Route 01528, Phesbus Road bridge over Davidson Creek, LM 0.500;
(717) Obion County, Route 02122, Old Turnpike Road bridge over Old Obion River Bed, LM 5.190;
(718) Obion County, Route 0A047, Pate Road bridge over Davidson Creek, LM 0.670;
(719) Obion County, Route 0A057, Cherry Road bridge over branch, LM 0.210;
(720) Obion County, Route 0A283, Town and Country Road bridge over branch, LM 0.520;
(721) Obion County, Route 0A578, W. Middle Trimble Road bridge over branch, LM 3.012;
(722) Obion County, Route 0A815, College Street bridge over Harris Fork Creek, LM 0.232;
(723) Obion County, I-69, from 1.2 miles south of SR-183 to south of SR-21 (Troy-Rives Road);
(724) Obion County, I-69, from south of SR-21 (Troy-Rives Road) to south of US-51;
(725) Obion County, I-69, from south of SR-3 to south of SR-5;
(726) Obion County, I-69, from south of SR-5 to west of SR-21;
(727) Obion County, I-69, from west of SR-21 to US-51 near Mayberry Road;
(728) Obion County, I-69, from Rogers Road in Kentucky to SR-3 (US-45W and US-51) in Obion County;
(729) Obion County, US-45W (SR-5), from Allie Campbell Road to US-51 (SR-3) in Union City;
(730) Obion County, US-45W (SR-5), from Troy Station Road to Allie Campbell Road;
(731) Obion County, US-51 (SR-3), bridge over branch, LM 15.390;
(732) Overton County, Route 01205, Windle Community Road bridge over Roaring River, LM 5.170;
(733) Overton County, Route 01506, Old SR-42 / Rickman Road bridge over Carr Creek, LM 9.060;
(734) Overton County, Route 0A255, Big Laurel Creek Road bridge over Big Laurel Creek, LM 0.021;
(735) Overton County, SR-52, (Jamestown Highway) from SR-52/85, west of Alpine to west of Pickett County line;
(736) Perry County, Route 00921, S. Mill Street bridge over Buffalo River, LM 0.220;
(737) Perry County, Route 0A008, Mousetail Landing Road bridge over Spring Creek, LM 0.049;
(738) Perry County, Route 0A202, Culps Bend Road bridge over Whiteoak
Creek, LM 0.051;
(739) Perry County, SR-13, three spot improvements at locations E, H, and K from SR-20 to south of the Humphreys County line;
(740) Perry County, SR-13, four spot improvements at locations B, C, D, and F from SR-20 to south of the Humphreys County line;
(741) Polk County, Route 02268, Easley Ford Road bridge over Conasauga River, LM 1.530;
(742) Polk County, Route 02309, Reynolds Bridge Road bridge over Ocoee River, LM 1.940;
(743) Polk County, Route 0A207, Boanerges Church Road bridge over Old Fort Creek, LM 3.290;
(744) Polk County, Route 0A317, Columbus Road bridge over CSX Railroad, LM 1.130;
(745) Polk County, SR-68, bridge over SR-40, LM 18.390;
(746) Polk County, SR-68, Ocoee Street bridge over Davis Mill Creek, LM 21.010;
(747) Polk County, US-64/74 (SR-40), Ocoee River Gorge Bypass, Appalachia Corridor “K” (Phase 1);
(748) Polk County, US-64/74 (SR-40), Ocoee River Gorge Bypass, Appalachia Corridor “K” (Phase 3);
(749) Polk County, US-64/74 (SR-40), bridge over North Potato Creek, LM 26.930;
(750) Polk County, US-64/74 (SR-40), bridge over Ocoee River, LM 3.120;
(751) Putnam County, SR-135, (N. Willow Avenue) from West Broad Street to West 12th Street;
(752) Putnam County, SR-136, (S. Jefferson Avenue) from I-40 to SR-111;
(753) Rhea County, Route 0A024, Harrison Avenue bridge over Roaring Creek, LM 0.722;
(754) Rhea County, SR-30, (Old Washington Highway) from US-27 (SR-29) to west of the Tennessee River bridge;
(755) Roane County, Route 01226, Pansy Hill Drive bridge over Emory River, LM 0.280;
(756) Roane County, Route 01425, Caney Creek Road bridge over Caney Creek, LM 3.940;
(757) Roane County, Route 02374, Poplar Creek Road bridge over Poplar Creek, LM 9.240;
(758) Roane County, Route 0A448, Scenic Drive bridge over I-40, LM 1.198;
(759) Roane County, Route 0B076, Main Street bridge over Indian Creek, LM 0.048;
(760) Roane County, I-40, bridge over Clinch River and NFA A774, LM 11.150;
(761) Roane County, US-27 (SR-29), S. Roane Street bridge over Emory River, LM 7.480;
(763) Roane County, US-70 (SR-1), from SR-382 to Midtown (SR-29);
(764) Robertson County, Route 01021, Cross Plains Road bridge over Empson Branch, LM 8.920;
(765) Robertson County, Route 05353, Experiment Station Road bridge over Wartrace Creek, LM 0.610;
(766) Robertson County, Route 0A480, Kinneys School Road bridge over
Sulphur Fork Creek, LM 1.233;
(767) Robertson County, I-24, ramp improvements at Exits 19 and 24;
(768) Robertson County, I-65, weigh station;
(769) Robertson County, SR-49, bridge over Calebs Creek, LM 4.930;
(770) Robertson County, SR-76, bridge over Sulphur Fork Creek, LM 0.210;
(771) Robertson County, SR-76, from Charles Drive to New Hall Road;
(772) Rutherford County, I-24, interchange improvements at Exits 74, 78, and 80;
(773) Rutherford County, I-24, ramp improvements at Exits 66, 70, 81, 84, and 89;
(774) Rutherford County, SR-266, (W. Jefferson Pike) from SR-102 to east of I-840;
(775) Rutherford County, SR-268, (N. Thompson Lane) from US-41/70S (SR-1) to SR-10;
(776) Rutherford County, SR-96, Franklin Road bridge over branch, LM 4.560;
(777) Rutherford County, SR-99, (New Salem Highway) from Cason Lane to I-24 in Murfreesboro;
(778) Rutherford County, SR-99, (New Salem Highway) from I-24 to SR-96 (Old Fort Parkway) in Murfreesboro;
(779) Rutherford County, SR-99, (New Salem Highway) from SW Loop Road to Cason Lane;
(780) Rutherford County, SR-99, (Bradyville Pike) from US-41 (SR-2, SE Broad Street) to Rutherford Boulevard in Murfreesboro;
(781) Rutherford County, SR-99, Bradyville Pike bridge over Murray Creek, LM 28.660;
(782) Rutherford County, US-231 (SR-10), S. Church Street bridge over CSX Railroad, LM 12.630;
(783) Rutherford County, US-41A (SR-16), S. Main Street bridge over Kelly Creek, LM 4.790;
(784) Scott County, Route 02400, Niggs Creek Road bridge over Southern Railway, LM 0.020;
(785) Scott County, Route 0A008, Grave Hill Ridge Road bridge over Puncheoncreek, LM 1.831;
(786) Scott County, Route 0A040, O and W Road bridge over Pine, LM 4.818;
(787) Scott County, Route 0A137, Angel Valley Road bridge over Jellico Creek, LM 0.006;
(788) Scott County, Route 0A209, Black Creek Road bridge over branch, LM 1.754;
(789) Scott County, Route 0A450, Stanley Creek Road bridge over Stanley Creek, LM 0.315;
(790) Scott County, SR-52, (Rugby Highway) from Morgan County line to SR-29 (US-27);
(791) Scott County, US-27 (SR-29), (Lon Foust Highway) from north of Wolf Creek Road to Old US-27 at Robbins;
(792) Scott County, US-27 (SR-29), (Oneida Bypass) from 5-lane section north of Oneida to 5-lane section south of Oneida;
(793) Sequatchie and Bledsoe counties, SR-28, from Dunlap to Pikeville;
(794) Sevier County, Route 0A852, Spruce Lane bridge over Roaring Fork
Creek, LM 0.107;
(795) Sevier County, SR-449 Ext., (Veterans Boulevard) from SR-35 to Robert Henderson Road;
(796) Sevier County, SR-XXX, (Jake Thomas Connector) from SR-449 to SR-73 (US-321/441);
(797) Sevier County, US-321 (SR-73), (East Parkway) from Buckhorn Road to SR-416 (Phase 2);
(799) Sevier and Jefferson counties, US-411 (SR-35), (Newport Highway) from Sims Road in Sevier County to SR-92 (Dickey Road) in Jefferson County;
(800) Shelby County, I-240, from I-55 to I-40 near Midtown;
(801) Shelby County, I-240, interchange at Airways Boulevard;
(802) Shelby County, I-40, from SR-177 (Germantown Road) to 1.0 mile east of Canada Road;
(803) Shelby County, I-40, from 1.0 mile east of Canada Road to SR-205 (Collierville-Arlington Road);
(804) Shelby County, SR-14, (Austin Peay Highway) from east of Kerrville-Rosemark Road to Tipton County line;
(805) Shelby County, SR-14, (Austin Peay Highway) from SR-385 (Paul Barrett Parkway) to east of Kerrville-Rosemark Road;
(806) Shelby County, SR-14, Jackson Avenue bridge over Harrison Creek, LM 19.120;
(807) Shelby County, US-51 (SR-3), (Elvis Presley Boulevard) from Craft Road to Shelby Drive;
(808) Shelby County, US-51 (SR-3), Thomas Street bridge over overflow, LM 15.690;
(810) Shelby County, US-64/70/79 (SR-1), (Summer Avenue) from I-40 to 0.1 mile north of Sycamore View Road;
(811) Shelby County, US-64/70/79 (SR-1), (Summer Avenue) from 0.1 mile north of Sycamore View Road to 0.1 mile north of Elmore Road;
(812) Shelby County, US-70/79 (SR-1), bridge over Clear Creek, LM 25.610;
(813) Shelby County, US-72 (SR-57), Poplar Avenue bridge over Cypress Creek, LM 2.720;
(814) Shelby County, US-78 (SR-4), (Lamar Avenue) from Mississippi state line to south of Shelby Drive;
(815) Shelby County, US-78 (SR-4), (Lamar Avenue) from south of Shelby Drive to Raines/Perkins Road interchange;
(816) Shelby County, US-78 (SR-4), (Lamar Avenue) from Raines Road/Perkins Road interchange to Getwell Road (SR-176);
(817) Shelby County, US-78 (SR-4), Lamar Avenue bridge over ramps from I-240 and SR-4, LM 7.490;
(818) Shelby and Fayette counties, I-269, ITS expansion from I-40 southward to the Mississippi state line;
(819) Shelby and Fayette counties, SR-385, ITS expansion from mile marker 7 to mile marker 15;
(820) Smith County, Route 01068, Brush Creek Road bridge over Brush
Creek, LM 1.020;
(821) Smith County, Route 02076, Webster Road bridge over Little Indian Creek, LM 0.860;
(822) Smith County, Route 02084, Gladice Road bridge over branch, LM 4.030;
(823) Smith County, Route 0A028, Old Kemp Hollow Lane bridge over Peyton Creek, LM 0.025;
(824) Smith County, Route 0A039, Friendship Hollow Lane S. bridge over Lankford Branch, LM 2.996;
(825) Smith County, Route 0A039, Friendship Hollow Lane S. bridge over Lankford Branch, LM 3.411;
(826) Smith County, Route 0A039, Friendship Hollow Lane S. bridge over Lankford Branch, LM 2.873;
(827) Smith County, I-40, bridge over Caney Fork River, LM 15.440;
(828) Smith County, I-40, bridge over Hickman Creek and NFA A156, LM 10.460;
(829) Smith County, I-40, Caney Fork River welcome center renovation;
(830) Smith County, SR-141, Grant Highway bridge over SR-141/I-40, LM 5.450;
(831) Smith County, US-70N (SR-24), rock fall mitigation (near Cordell Hull Bridge);
(832) Stewart County, Route 00945, Bumpus Mills Road bridge over Morgan Branch, LM 6.700;
(833) Stewart County, Route 01797, Pleasant Hill Road bridge over Blue Creek, LM 2.420;
(834) Stewart County, Route 0A335, E. Fork Leatherwood Road bridge over Harris Branch, LM 3.600;
(835) Stewart County, Route 0A380, Upper Standing Rock Road bridge over Terrapin Run Branch, LM 2.472;
(836) Stewart County, Route 0A467, Cox Hollow Road bridge over Standing Rock Creek, LM 0.535;
(837) Sullivan County, Route 01375, Muddy Creek Road bridge over Booher Creek, LM 0.220;
(838) Sullivan County, Route 01392, Old SR-37 bridge over Indian Creek, LM 1.240;
(839) Sullivan County, Route 02599, Devault Bridge Road bridge over Muddy Creek, LM 0.310;
(840) Sullivan County, Route 02640, Fordtown Road bridge over CSX Railroad, LM 3.670;
(841) Sullivan County, Route 03899, Fort Robinson Drive bridge over Dry Branch in Kingsport, LM 0.390;
(842) Sullivan County, Route 03930, State Street bridge over Beaver Creek, LM 0.170;
(843) Sullivan County, Route 0A353, Old Carden Hollow Road bridge over Back Creek, LM 0.445;
(844) Sullivan County, Route 0A456, Eighth Street bridge over Beaver Creek, LM 0.048;
(845) Sullivan County, Route 0A839, Wyatt Hollow Road bridge over Harpers Creek, LM 8.630;
(846) Sullivan County, Route 0B419, Old Blair Gap Road bridge over Walker Fort Creek, LM 2.980;
(847) Sullivan County, Route 0C473, Reedy Creek Lane bridge over Reedy Creek, LM 0.028;
(848) Sullivan County, Route 0C534, Meadow Brooke Lane bridge over Reedy Creek, LM 0.011;
(849) Sullivan County, Route 0C835, Henry Road bridge over Muddy Creek, LM 0.040;
(850) Sullivan County, I-81, ITS expansion between I-26 (Exit 57) interchange and Virginia state line;
(851) Sullivan County, SR-126, (Memorial Boulevard) from East Center Street in Kingsport to east of Cooks Valley Road;
(852) Sullivan County, SR-126, (Memorial Boulevard) from east of Cooks Valley Road to I-81 in Kingsport;
(853) Sullivan County, SR-355, Industry Drive bridge over Reedy Creek, LM 1.910;
(854) Sullivan County, SR-36, Ft. Henry Drive bridge (right lanes) over South Holston River, LM 5.020;
(855) Sullivan County, SR-36, Ft. Henry Drive bridge (left lanes) over South Holston River, LM 5.030;
(856) Sullivan County, SR-44, Dry Branch Road bridge over branch, LM 5.030;
(857) Sullivan County, SR-93, (Sullivan Gardens Parkway) from south of Horse Creek to north of Derby Drive (spot improvements);
(858) Sullivan County, SR-93, John B. Dennis Highway bridge over CSX Railroad, LM 8.440;
(860) Sullivan and Washington counties, SR-93, (Sullivan Gardens Parkway) from Morgan Lane in Washington County to south of Baileyton Road in Sullivan County (spot improvement);
(861) Sumner County, SR-109, (proposed SR-109 Portland Bypass) from SR-52 west of Portland to existing SR-109 north of Portland;
(862) Sumner County, SR-109, (proposed SR-109 Portland Bypass) from existing SR-109 south of Portland to SR-52 west of Portland;
(863) Sumner County, SR-174, Old US-31 E. bridge over Little Trammel Creek, LM 39.410;
(864) Sumner County, SR-386, interchange at Forest Retreat Road;
(865) Sumner County, SR-386, (Vietnam Veterans Parkway) transit managed lanes and widening from I-65 to US-31E (Phase 1);
(866) Sumner County, US-31E (SR-6), Nashville Pike bridge over East Fork Station Camp Creek, LM 11.910;
(867) Sumner County, US-31E (SR-6), Nashville Pike bridge over West Fork Station Camp Creek, LM 9.84;
(868) Sumner County, US-31E (SR-6), (Broadway) from East Broadway to Dobbins Pike (SR-174);
(869) Sumner and Davidson counties, Route 0B375, Old Shiloh Road bridge over Mansker Creek, LM 0.010;
(870) Tipton County, Route 00808, Bride Road bridge over Mathis Creek, LM 5.070;
(871) Tipton County, Route 00808, Bride Road bridge over Rocky Branch, LM 5.010;
(872) Tipton County, Route 01459, Dunlap Orphanage Road bridge over
branch, LM 0.410;
(873) Tipton County, Route 01473, Old Memphis Road bridge over branch, LM 2.715;
(874) Tipton County, Route 05447, Maple Drive bridge over Big Branch Creek, LM 2.740;
(875) Tipton County, Route 0A090, Antioch-Cotton Lake Road bridge over Richland Creek, LM 1.158;
(876) Tipton County, Route 0A118, Salem Road bridge over Branch Creek, LM 1.050;
(877) Tipton County, Route 0A169, S. Terry Lane Road bridge over Hall Creek, LM 0.761;
(878) Tipton County, Route 0A188, McLennan Road bridge over Kelly Branch, LM 0.319;
(879) Tipton County, SR-14, from north of SR-384 to SR-59;
(880) Trousdale County, SR-141, from Hartsville Pike / Cedar Bluff intersection to north of SR-10;
(881) Trousdale and Macon counties, SR-10, (Hartsville Road) safety improvements from Lafayette to Hartsville;
(882) Unicoi County, Route 0A048, Hensley Road bridge over South Indian Creek, LM 0.008;
(883) Unicoi County, Route 0A051, Tumbling Creek Road bridge over Spivey Creek, LM 0.224;
(884) Unicoi County, Route 0A0481, Carver Road bridge over Dry Creek, LM 0.010;
(885) Unicoi County, Route 0A601, Locust Lane bridge over South Indian Creek, LM 0.039;
(886) Unicoi County, SR-107, Unicoi Drive bridge over Indian Creek, LM 5.370;
(887) Union County, Route 01345, Edwards Hollow Road bridge over Little Barren Creek, LM 0.030;
(888) Union County, Route 0A122, Bower Hollow Road bridge over Bull Run Creek, LM 2.129;
(889) Union County, Route 0A128, Little Tater Valley Road bridge over Bull Run Creek, LM 0.070;
(890) Union County, Route 0A137, S. Front Street bridge over Flat Creek, LM 2.030;
(891) Union County, Route 0A156, Johnson Road bridge over North Fork Bull Run Creek, LM 1.387;
(892) Union County, Route 0A156, Beard Valley Road bridge over Raccoon Creek, LM 5.325;
(893) Union County, SR-33, from Knox County line to south of SR-144 (Left);
(894) Union County, SR-61, from Maynardville to Luttrell north city limit;
(895) Van Buren County, Route 0A090, Park Road bridge over Fall Creek Falls Dam overflow, LM 2.720;
(896) Warren County, Route 01100, Shelbyville Road bridge over Small Branch, LM 0.590;
(897) Washington County, Route 01335, Glendale Road bridge over branch, LM 4.470;
(898) Washington County, Route 01352, Bowmantown Road bridge over Carson Creek, LM 0.930;
(899) Washington County, Route 02575, Telford-New Victory Road bridge over Little Limestone Creek, LM 0.140;
(900) Washington County, Route 03960, Milligan Highway bridge over CSX Railroad, LM 0.060;
(901) Washington County, Route 0A674, New Street bridge over Brush Creek, LM 0.535;
(902) Washington County, Route 0A873, Garland Road bridge over Limestone Creek, LM 0.534;
(903) Washington County, Route 0A918, Jarrett Road bridge over branch, LM 1.651;
(904) Washington County, Route 0A970, Mill Street bridge over Little Limestone Creek, LM 0.031;
(905) Washington County, Route 0B099, Little Cassi Creek Road bridge over Cassi Creek, LM 0.769;
(906) Washington County, Route 0B181, Tommy Campbell Road bridge over Little Cherokee Creek, LM 0.098;
(907) Washington County, Route 0B435, Magnolia Extension bridge over CSX Railroad, LM 0.048;
(908) Washington County, Route 0C900, Austin Springs Road bridge over Watauga River, LM 3.537;
(909) Washington County, I-26, interchange at SR-354 (Exit 17);
(910) Washington County, SR-353, Old SR-34 bridge over Little Limestone Creek, LM 11.720;
(911) Washington County, SR-93, (Sullivan Gardens Parkway) from north of Davis Road to north of Fire Hall Road (spot improvement);
(912) Washington County, SR-XXX (06040), (Knob Creek Road) from SR-354 (Boones Creek Road) to Mizpah Hills Drive;
(914) Washington and Sullivan counties, SR-36, (Fort Henry Drive) from SR-75 to I-81;
(915) Wayne County, Route 01767, Hurricane Creek Road bridge over Hurricane Creek, LM 16.160;
(916) Wayne County, Route 0A141, Simmons Branch Road bridge over Simmons Branch, LM 1.672;
(917) Wayne County, Route 0A280, Hill Parkway bridge over Butler Creek, LM 0.225;
(918) Wayne County, Route 0A303, Rocky Ford Road bridge over Holly Branch, LM 0.140;
(919) Wayne County, Route 0A312, Wright Ridge Road bridge over Cypress Creek, LM 0.099;
(920) Wayne County, Route 0A387, Cromwell Ridge Road bridge over Bear Creek, LM 0.062;
(921) Weakley County, Route 00815, Ralston Road bridge over North Fork Obion River, LM 6.100;
(922) Weakley County, Route 00859, Old Highway 22 bridge over Middle Fork of the Obion River, LM 10.310;
(923) Weakley County, Route 00859, Evergreen Street bridge over overflow, LM 10.480;
(924) Weakley County, Route 00859, Evergreen Street bridge over overflow, LM 10.650;
(925) Weakley County, Route 01610, Lower Sharon Road bridge over Terrell Branch, LM 2.890;
(926) Weakley County, Route 01616, Oliver Road bridge over Cane Creek, LM 1.780;
(927) Weakley County, Route 0A060, Chestnut Glade Road bridge over Richland Creek, LM 1.271;
(928) Weakley County, Route 0A235, Thompson Creek Road bridge over Thompson Creek, LM 0.230;
(929) Weakley County, Route 0A666, Ryan Road bridge over Cypress Creek, LM 0.385;
(930) Weakley County, SR-54, bridge over branch, LM 5.250;
(931) White County, Route 0A966, Old SR-42 bridge over Falling Water River, LM 6.740;
(932) White County, Route 0A966, Roberts-Matthews Highway bridge over Post Oak Creek, LM 5.300;
(933) White County, SR-111, (Spencer Highway) grade separation at Taft Church Road in Sparta;
(934) Williamson County, I-65, interchange at SR-441 (Moores Lane) reconstruction;
(935) Williamson County, SR-100, (Fairview Boulevard) from Bowie Lake Road to I-840;
(936) Williamson County, SR-397, (Mack C. Hatcher Memorial Parkway) from south of SR-96 to US-431 (SR-106) (northwest quadrant);
(937) Williamson County, SR-397, (Mack C. Hatcher Memorial Parkway) from SR-96 east of Franklin to US-31 (SR-6, Columbia Pike) south of Franklin (southeast quadrant);
(938) Williamson County, SR-96, from east of Arno Road to east of SR-252 (Wilson Pike);
(939) Williamson County, SR-96, from east of SR-252 (Wilson Pike) to I-840;
(940) Williamson County, SR-96, (Franklin Road) Murfreesboro Road bridge over Mayes Creek, LM 16.760;
(941) Williamson County, SR-96, (Franklin Road) Third Avenue S. bridge over Harpeth River, LM 10.740;
(942) Williamson County, US-31 (SR-6), (Columbia Pike) from I-840 in Thompson's Station to Mack Hatcher Parkway in Franklin;
(943) Williamson County, US-31 (SR-6), (Columbia Pike) from Fowlkes Street to SR-397 (Mack Hatcher Parkway);
(944) Williamson County, US-31 (SR-6), E. Main Street bridge over Harpeth River, LM 12.510;
(945) Williamson County, US-31 (SR-6), Columbia Pike bridge over CSX Railroad, LM 8.890;
(946) Williamson County, US-31 (SR-6), Columbia Pike bridge over West Harpeth River, LM 5.720;
(948) Williamson County, US-31A/41A (SR-11), Horton Highway bridge over Harpeth River, LM 3.500;
(949) Williamson County, US-31A/41A (SR-11), Nolensville Road bridge over branch, LM 16.230;
(950) Williamson County, US-31A/41A (SR-11), Nolensville Road bridge over Mill Creek, LM 14.780;
(951) Williamson County, US-31A/41A (SR-11), Nolensville Road bridge over McCanless Branch, LM 9.460;
(952) Williamson and Davidson counties, US-31A/41A (SR-11), (Nolensville Pike) from south of Burkitt Road to north of Mill Creek;
(953) Williamson and Rutherford counties, SR-96, from I-840 in Williamson County to Veterans Parkway;
(954) Wilson County, I-40, from SR-109 to I-840;
(955) Wilson County, I-40, from I-840 to US-70 (SR-26);
(956) Wilson County, I-40, new interchange at Central Pike (SR-265);
(957) Wilson County, SR-109, from north of US-70 (SR-24) to south of Dry Fork Creek;
(958) Wilson County, SR-141, (Hartsville Pike) from north of Lovers Lane to US-70 (SR-26);
(959) Wilson County, SR-141, (Hartsville Pike) from south of Spring Creek to north of Lovers Lane;
(960) Wilson County, SR-171, (Mt. Juliet Road) from Central Pike (SR-265) to Providence Way;
(961) Wilson County, US-70 (SR-24) (Lebanon Road) from Park Glen Drive to Bender's Ferry Road; and

c) The department of transportation may make recommendations in its annual transportation improvement program that projects be deleted from, added to, or modified in the list of projects identified in subsection (b).

d) On or before July 1, 2018, and on or before each July 1 occurring thereafter, the department of transportation shall submit a report to the general assembly on the status of the projects listed in subsection (b), including at a minimum the following information for each project:

(1) The date on which engineering activities began, or are anticipated to begin, if known;
(2) The date on which right-of-way acquisition activities began, or are anticipated to begin, if known;
(3) The date on which construction activities began, or are anticipated to begin, if known; and
(4) The date on which construction was completed, as applicable.

e) The report required under subsection (d) shall be supplemental to, and not in place of, any other report the department of transportation is required to submit to the general assembly on the status of highway projects.
PART 10
GASOLINE TAX FOR LOCAL TRANSPORTATION FUNDING [REPEALED]

67-3-1001. [Repealed.]

67-3-1002. Tax additional. [Repealed.]

67-3-1003. Applicability to governmental agencies. [Repealed.]

67-3-1004. Tax authorized.

67-3-1005. County levy precludes municipal levy. [Repealed.]

67-3-1006. Exemptions. [Repealed.]

67-3-1007. Referendum. [Repealed.]

67-3-1008. Petition for tax. [Repealed.]

67-3-1009. Repeal of tax. [Repealed.]

67-3-1010. Collection of tax. [Repealed.]

67-3-1011. Accounting for funds. [Repealed.]

67-3-1012. Apportionment and use of tax. [Repealed.]

67-3-1102. Liquified gas — Rate of tax.

(a) A use tax is imposed on liquified gas used for the propulsion of motor vehicles on the public highways of this state. For the purpose of determining the tax on liquified gas, a diesel gallon equivalent factor of six and six one-hundredths pounds (6.06 lbs.) per gallon shall be used. The rate of the tax imposed by this section shall be:

(1) On or after July 1, 2017, through June 30, 2018, seventeen cents (17¢) per gallon;
(2) On or after July 1, 2018, through June 30, 2019, nineteen cents (19¢) per gallon; and
(3) On or after July 1, 2019, twenty-two cents (22¢) per gallon.

(b) Governmental agencies are exempt from the liquified gas tax imposed by subsection (a).

67-3-1113. Compressed natural gas — Rate of tax.

(a) A use tax is imposed on compressed natural gas used for the propulsion of motor vehicles on the public highways of this state. For the purpose of determining the tax on compressed natural gas, a gallon equivalent factor of five and sixty-six one-hundredths pounds (5.66 lbs.) per gallon shall be used. The rate of the tax imposed by this section shall be:

(1) On or after July 1, 2017, through June 30, 2018, sixteen cents (16¢) per
gallon;
   (2) On or after July 1, 2018, through June 30, 2019, eighteen cents (18¢) per gallon; and
   (3) On or after July 1, 2019, twenty-one cents (21¢) per gallon.
(b) Governmental agencies are exempt from the compressed natural gas tax imposed by subsection (a).

67-4-702. Part definitions.
(a) As used in this part, unless the context otherwise requires:
   (1) “Affiliated business entity” means a business entity:
      (A) In which the taxpayer, directly or indirectly, has more than fifty percent (50%) ownership interest;
      (B) That, directly or indirectly, has more than fifty percent (50%) ownership interest in the taxpayer; or
      (C) In which a person described in subdivision (a)(1)(B) directly or indirectly has more than fifty percent (50%) ownership interest in the taxpayer; or
      (2) “Business” includes any activity engaged in by any person, or caused to be engaged in by the person, with the object of gain, benefit, or advantage, either direct or indirect. “Business” does not include occasional and isolated sales or transactions by a person not routinely engaged in business. “Business” does not include an individual property owner who utilizes a property management company to manage a vacation lodging for overnight rentals; provided, however, that “business” shall include any other activity of such individual property owner that is subject to any tax levied by this part;
   (3) “Commissioner” means the commissioner of revenue or the commissioner’s duly authorized assistants, except as otherwise provided in this part;
   (4) “Department” means the department of revenue, except as otherwise provided in this part;
   (5) “Dominant business activity” means the business activity that is the major and principal source of taxable gross sales of the business;
   (6) “Fabricating or processing tangible personal property for resale” includes only tangible personal property that is fabricated or processed for ultimate use or consumption off the premises of the one engaging in such fabricating or processing;
   (7) “Gross sales” means the sum total of all sales under this part as defined in this section, without any deduction whatsoever of any kind or character, except as provided in this part;
   (8) “Individual property owner” means a person who owns a vacation lodging;
   (9) “Inventories of merchandise held for sale or exchange” includes tangible personal property held by a merchant or business for lease or rental, but does not include such property in the possession of a lessee;
   (10) “Lease or rental” means the leasing or renting of tangible personal property and the possession or use of the property by the lessee or renter for a consideration, without transfer of the title of such property;
(11) “Natural gas marketer” means any business that is not regulated as to rates and services by the Tennessee public utility commission; that provides natural gas to customers located within this state through the procurement and shipping or transportation of such natural gas, and any ancillary services thereto; and that is required by the Federal Energy Regulatory Commission to take title to the natural gas, pursuant to Federal Energy Regulatory Commission Order No. 636-A, 57 Fed. Reg. 36128 (1992), in connection with the sale of such gas to its customers;

(12) “Overnight rentals” means rental of a vacation lodging to one (1) or more individuals for temporary human lodging not to exceed a period of one hundred eighty (180) consecutive days; provided, however, that a tenancy or lease to an individual who has no other place of residence or abode during the lease period to which such individual may return after the lease terminates is not “overnight rentals”;

(13) “Person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number;

(14) “Property management company” means a person who, for consideration, manages a vacation lodging for an individual property owner that provides such lodging for a rental fee to consumers;

(15) “Resale” means a subsequent, bona fide sale of the property, services or taxable item by the purchaser. “Sale for resale” means the sale of the property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale shall, however, be in strict compliance with rules and regulations promulgated by the commissioner. Sales of tangible personal property or taxable services made by a dealer to an out-of-state vendor who directs that the dealer act as the out-of-state vendor’s agent to deliver or ship tangible personal property or taxable services to the out-of-state vendor’s customer, who is a user or consumer, are sales for resale;

(16) “Retail sale” or “sale at retail” means any sale other than a wholesale sale;

(17) “Retailer” means any person primarily engaged in the business of making retail sales. For purposes of this subdivision (a)(17), “primarily” means that at least fifty percent (50%) of the taxable gross sales of the business are retail sales;

(18)(A)(i) “Sale” means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, repairing or servicing for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property;

(ii) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price is deemed a sale;

(iii) “Sale” includes the furnishing of any of the things or services taxable under this part;

(B) “Sale” does not include the transfer of tangible personal property from a wholesaler to another wholesaler or from a retailer to another
retailer where the amount paid by the transferee to the transferor does not exceed the transferor’s cost including freight in and storage costs, and transportation costs incurred in the transfer from the transferor to the transferee;

(19) “Sales price” means the total amount for which tangible personal property or services rendered is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction from the price on account of the cost of the property sold, the cost of materials used, labor or service cost, losses, or any other expense whatsoever; provided, that “sales price” does not include any additional consideration given by the purchaser for the privilege of making deferred payments, regardless of whether such additional consideration shall be known as interest, time price differential on conditional sales contracts, carrying charges or any other name by which it shall be known, and does not include any additional consideration received by a motor vehicle dealer from a lender for the sale or assignment to the lender of a chattel lease or conditional sales contract. “Sales price” for services rendered by a person for an affiliated business entity does not include any amount that is accounted for as a reasonable allocation of cost incurred in providing the service. “Sales price” does not include any advertising cost paid by a seller to an auctioneer for the purpose of advertising an auction, when no portion of such payment is retained as profit by the auctioneer, and when such payment has been placed in an escrow or a trust account by the auctioneers on behalf of the seller;

(20)(A) “Seller” means every consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title to tangible personal property, with power to sell such tangible personal property in the consignee’s, bailee’s, factor’s or auctioneer’s own name and actually so selling, is deemed the seller of such tangible personal property within the meaning of this part; and further, the consignor, bailor, principal or owner is deemed the seller of such tangible personal property to the consignee, bailee, factor or auctioneer;

(B) The burden shall be upon the taxpayer in every case to establish the fact that the taxpayer is not engaged in the business of selling tangible personal property, but is acting merely as broker or agent in promoting sales for a principal. Such claim will be allowed only when the taxpayer’s accounting records are kept in such manner as the commissioner shall by regulation provide;

(21) “Services” means and includes every activity, function or work engaged in by a person for profit or monetary gain, except as otherwise provided in this part. Services for profit or monetary gain does not include services rendered by a person for an affiliated business entity; provided, that the services are accounted for as allocations of cost incurred in providing the service without any markup whatsoever. “Services” does not include sales of tangible personal property;

(22)(A) “Substantial nexus in this state” means any direct or indirect connection of the taxpayer to this state such that the taxpayer can be required under the Constitution of the United States to remit the tax imposed under this part. Such connection includes, but is not limited to,
any of the following:
   (i) The taxpayer is organized or commercially domiciled in this state;
   (ii) The taxpayer owns or uses its capital in this state;
   (iii) The taxpayer has systematic and continuous business activity in
        this state that has produced gross receipts attributable to customers in
        this state; or
   (iv) The taxpayer has bright-line presence in this state. A person has
        bright-line presence in this state for a tax period if any of the following
        applies:
           (a) The taxpayer’s total receipts in this state during the tax period,
               as determined consistent with § 67-4-2012, exceed the lesser of five
               hundred thousand dollars ($500,000) or twenty-five percent (25%) of
               the taxpayer’s total receipts everywhere during the tax period;
           (b) The average value of the taxpayer’s real and tangible personal
               property owned or rented and used in this state during the tax period,
               as determined consistent with § 67-4-2012, exceeds the lesser of fifty
               thousand dollars ($50,000) or twenty-five percent (25%) of the average
               value of all the taxpayer’s total real and tangible personal property; or
           (c) The total amount paid in this state during the tax period by the
               taxpayer for compensation, as determined consistent with § 67-4-
               2012, exceeds the lesser of fifty thousand dollars ($50,000) or twenty-
               five percent (25%) of the total compensation paid by the taxpayer;

   (B) Notwithstanding subdivision (a)(22)(A), no company that is treated
       as a foreign corporation under the Internal Revenue Code and that has no
       income effectively connected with a United States trade or business shall
       be considered to have a “substantial nexus in this state.” For these
       purposes, whether a company has income effectively connected with a
       United States trade or business shall be determined in accordance with
       the Internal Revenue Code;

   (23) “Tangible personal property” means and includes personal property
        that may be seen, weighed, measured, felt or touched, or in any other
        manner perceptible to the senses. “Tangible personal property” does not
        include stocks, bonds, notes, insurance or other obligations or securities, nor
        does it include any materials, substances or other items of any nature
        inserted or affixed to the human body by duly licensed physicians or dentists
        or otherwise dispensed by them in the treatment of patients;

   (24) “Transient vendor” means any person who brings into temporary
        premises and exhibits stocks of merchandise to the public for the purpose of
        selling or offering to sell the merchandise to the public. “Transient vendor”
        does not include any person selling goods by sample, brochure or sales
        catalog for future delivery; or to sales resulting from the prior invitation to
        the seller by the owner or occupant of a residence. For purposes of this
        definition, “merchandise” means any consumer item that is or is represented
        to be new or not previously owned by a consumer, and “temporary premises”
        means any public or quasi-public place, including a hotel, rooming house,
        storeroom, building or part of a building, tent, vacant lot, railroad car or
        motor vehicle that is temporarily occupied for the purpose of exhibiting
        stocks of merchandise to the public. Premises are not temporary if the same
        person has conducted business at those premises for more than six (6)
        consecutive months or has occupied the premises as the person’s permanent
        residence for more than six (6) consecutive months;
(25) “Vacation lodging” means real property, other than the primary and regular residence or abode of an individual property owner, that is utilized, or can be utilized, for overnight rentals in the absence of the individual property owner;

(26)(A) “Wholesale sale” or “sale at wholesale” means any sale to a retailer for resale;

(B) “Wholesale sale” or “sale at wholesale” includes the sale of industrial materials for future processing, manufacture or conversion into articles of tangible personal property for resale where the industrial materials become a component part of the finished product. This subdivision (a)(25)(B) shall not apply to raw or unprocessed agricultural products;

(C) “Wholesale sale” or “sale at wholesale” includes the sale by a wholesaler of tangible personal property to the state of Tennessee or any county or municipality or subdivision thereof, or the sale to any religious, educational or charitable institution as defined in § 67-6-322; and

(D) “Wholesale sale” or “sale at wholesale” includes the sale by a franchised motor vehicle dealer to a manufacturer or distributor of motor vehicles or an obligor under an extended service contract of parts or repair services, or both, necessary for repairs performed by the dealer under the manufacturer’s, distributor’s or obligor’s warranty, and also includes predelivery inspection charges paid to a franchised motor vehicle dealer by a manufacturer or distributor of the motor vehicle; and

(27) “Wholesaler” means any person primarily engaged in the business of making wholesale sales. For purposes of this subdivision (a)(26), “primarily” means that more than fifty percent (50%) of the taxable gross sales of the business are wholesale sales.

(b) In any county where a metropolitan government prevails, the general services district constitutes the county and the urban services district, as well as any incorporated towns therein, constitutes the municipalities insofar as this part is concerned.

67-4-711. Deductions.

(a) In computing tax, there may be deducted from the measure of tax the following items:

(1) Cash discounts allowed and taken on sales;

(2) The proceeds of the sale of goods, wares, or merchandise returned by the customer when the sale price is refunded either in cash or by credit;

(3) The amount allowed as trade-in value for any article sold;

(4) Amounts representing the difference between the remaining amount due on the selling price of tangible personal property sold on a security agreement and five hundred dollars ($500), when the wholesaler or retailer actually repossesses the property sold pursuant to the terms of the security agreement;

(5)(A) Amounts actually paid during the business tax period by a contractor to a subcontractor holding a business license or who is licensed by the state board for licensing contractors for performing the activities described in § 67-4-708(4)(A). For a contractor to be eligible to claim the deduction, the contractor must provide, on a form prescribed by the commissioner, the name, address and business license or contractor’s license number of the subcontractor and the amount subcontracted. The contractor also must maintain in its records a copy of the subcontractor’s business license or
license issued by the board for licensing contractors;

(B) This subdivision (a)(5) shall apply only to new contracts issued sixty (60) days after July 1, 2009. Contracts issued before that date shall be subject to this subdivision (a)(5) as it existed immediately prior to July 1, 2009;

(6) The sale of any service that is delivered to a location outside this state;

(7) The proceeds of the sale of school supplies and meals to students and school employees on campus by elementary and secondary schools; provided, that the proceeds of all sales of such items by private independent contractors shall not be deducted; and

(8) A deduction from gross receipts shall be allowed for bad debts arising from receipts on which the tax imposed by this chapter was paid.

(A) Any deduction taken that is attributed to bad debts shall not include interest.

(B) For purpose of calculating the deduction, a “bad debt” is as defined in 26 U.S.C. § 166. However, the amount calculated pursuant to 26 U.S.C. § 166 shall be adjusted to exclude:

(i) Financing charges or interest;

(ii) Sales or use taxes charged on the purchase price;

(iii) Uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;

(iv) Expenses incurred in attempting to collect any debt; and

(v) Repossessed property.

(C) The deduction provided for by this subdivision (a)(8) shall be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant’s books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision (a)(8), a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant’s books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(D) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected shall be paid and reported on the return filed for the period in which the collection is made.

(E) When the amount of bad debt exceeds the amount of gross receipts for the period during which the bad debt is written off, the taxpayer may file a refund claim and receive a refund pursuant to § 67-1-1802. The statute of limitations for filing the claim shall be measured from the due date of the return on which the bad debt could first be claimed.

(b) In computing tax, there may be deducted from the measure of tax the following taxes; provided, that such deductions may be claimed only by the taxpayer who made direct payment to the applicable governmental agency and, in addition, by all subsequent vendees of such taxpayer licensed under this chapter to do business in the state:

(1) Federal excise taxes imposed on beer, gasoline, motor fuel and tobacco products;

(2) Tennessee gasoline tax, compiled in chapter 3 of this title;

(3) Tennessee motor vehicle fuel use tax, compiled in chapter 3 of this title;
(4) Tennessee tobacco tax, compiled in part 10 of this chapter;
(5) Tennessee beer taxes, compiled in title 57, chapters 5 and 6;
(6) Special tax on petroleum products, compiled in chapter 3, part 9 of this title;
(7) Taxes that are required to be passed on to the consumer by the Retailers’ Sales Tax Act, compiled in chapter 6 of this title, or by the provisions of title 57, chapter 4, relative to sale of alcohol for on-premises consumption, should be excluded from the gross sales reported on the business tax return, but such taxes passed on to the consumer may be deducted from the gross sales reported, if such taxes are included in gross sales on the business tax return;
(8) Liquefied gas tax, compiled in chapter 3, part 11 of this title; and
(9) Taxes that are required to be collected by a bail bondsman pursuant to part 8 of this chapter shall be excluded from the gross sales reported on the business tax return, but such taxes collected by the bail bondsman may be deducted from the gross sales reported if such taxes are included in gross sales on the business tax return.

67-4-1402. Levy of tax authorized — Delinquent notice by publication.

(a)(1) Each municipality in this state is authorized to levy by ordinance a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator.

(2) Notwithstanding subdivision (a)(1), a municipality with a population of more than six hundred ten thousand (610,000), according to the 2010 federal census or any subsequent federal census, is authorized to levy by one or more ordinances a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed an aggregate of five percent (5%) of the consideration charged by the operator.

(b)(1) No ordinance authorizing such privilege tax shall take effect unless it is approved by a two-thirds (\(\frac{2}{3}\)) vote of the municipal legislative body at two consecutive, regularly scheduled meetings, or unless it is approved by a majority of the number of qualified voters of the municipality voting in an election on the question of whether or not the tax should be levied.

(2) If there is a petition of ten percent (10%) of the qualified voters who voted in the municipality in the last gubernatorial election that is filed with the county election commission within thirty (30) days of final approval of such ordinance by the municipal legislative body, then the county election commission shall call an election on the question of whether or not the tax should be levied in accordance with this section.

(3) The municipal legislative body shall direct the county election commission to call such election, to be held in a regular election or in a special election for the purpose of approving or rejecting such tax levy. The municipality shall pay the cost of any special election.

(4) The ballots used in such election shall have printed on them the substance of such ordinance and the voters shall vote for or against its approval.

(5) The votes cast on the question shall be canvassed and the results proclaimed by the county election commission and certified by it to the municipal legislative body.
(6) The qualifications of voters voting on the question shall be the same as those required for participation in general elections.

(7) All laws applicable to general elections shall apply to the determination of the approval or rejection of this tax levy.

c(1) Except as provided in subdivision (c)(5), as a preliminary step toward pursuing any remedy available to the authorized collector by law to collect any taxes due or delinquent under an ordinance imposing a tax on the privilege of occupancy in a hotel, the authorized collector may publish a notice in accordance with subdivision (c)(2) that lists the name of each operator who has failed to collect or remit the tax due or delinquent and the amount of the tax due or delinquent, if:

(A) The amount of the tax due or delinquent exceeds ten thousand dollars ($10,000) and has been due or delinquent for one hundred twenty (120) days or more; or

(B) The amount of the tax due or delinquent exceeds fifty thousand dollars ($50,000).

(2) Any municipality that elects to publish a notice as authorized by subdivision (c)(1) shall cause the notice to be inserted, once a week for two (2) consecutive weeks in the month of January, in a newspaper of general circulation as defined in § 2-1-104 or one (1) or more newspapers published or widely distributed in the municipality; provided, that if no newspaper is published in the municipality, the notice shall be posted on the courthouse door.

(3) The cost of publication shall be paid by the municipality.

(4) To the extent there is a conflict between this subsection (c) and any ordinance that imposes a tax on the privilege of occupancy in a hotel, this subsection (c) shall govern. The legislative body of any municipality, by ordinance, is authorized to modify the provisions of any ordinance enacted prior to April 14, 2016, that conflict with this subsection (c).

(5) An operator's name and amount of tax due or delinquent shall not be listed on any notice published pursuant to subdivision (c)(1) if all or any portion of the tax is at issue in a suit filed by the operator challenging the collection or assessment of the tax.

67-4-1425. Limitations on levy of tax.

(a) After May 12, 1988, any private act that authorizes a city or county to levy a tax on the privilege of occupancy of a hotel shall limit the application of such tax as follows:

(1) A city shall only levy such tax on occupancy of hotels located within its municipal boundaries;

(2) A city shall not be authorized to levy such tax on occupancy of hotels if the county in which such city is located has levied such tax prior to the adoption of the tax by the city; and

(3) A county shall only levy such tax on occupancy of hotels located within its boundaries but outside the boundaries of any municipality that has levied a tax on such occupancy prior to the adoption of such tax by the county.

(b) This section shall be applied prospectively only and all private acts levying taxes on the privilege of occupancy of hotels enacted prior to May 12, 1988, shall remain in full force and effect. For the purposes of this section, "enacted" means passed by both houses of the general assembly and signed by the governor and approved in accordance with the Constitution of Tennessee,
article XI, § 9.

(c) This section does not apply in any county, excluding any county with a metropolitan form of government, that:

1. Contains or borders a county that contains an airport designated as a regular commercial service airport in the international civil aviation organization (ICAO) regional air navigation plan; and

2. Contains a government-owned convention center of at least fifty thousand square feet (50,000 sq. ft.) with an attached, adjoining, or adjacent hotel or motel facility; or

3. Contains an airport with regularly scheduled commercial passenger service, and the creating municipality of the metropolitan airport authority for the airport is not located within such county. The tax levied on occupancy of hotels by cities located within such a county may only be used for tourism as defined by § 7-4-101;

provided, however, that a municipality located in any county to which this subsection (c) applies shall not be authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount exceeding five percent (5%) of the consideration charged by the operator; provided, further, that, if a municipality located in such county is incorporated under the general law, then such municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such ordinance shall set forth the manner of collection and administration of such privilege tax.

(d) This section shall not apply in any county having a population of not less than eighty thousand (80,000) nor more than eighty-three thousand (83,000), in any county having a population of not less than thirty-five thousand fifty (35,050) nor more than thirty-five thousand seventy (35,070), nor in any county having a population of not less than one hundred eighteen thousand four hundred (118,400) nor more than one hundred eighteen thousand seven hundred (118,700), according to the 1990 federal census or any subsequent federal census.

(e) This section does not apply to any city that has constructed a qualifying project or projects under the Convention Center and Tourism Development Financing Act of 1998, compiled in title 7, chapter 88. Further, § 67-4-503 shall not be applicable to such cities as it relates to the authority to levy an occupancy tax.

(f) This section shall not apply in any county having a population of not less than twenty-five thousand five hundred seventy-five (25,575) nor more than twenty-five thousand eight hundred fifty (25,850), according to the 2000 federal census or any subsequent federal census.

(g) This section shall not apply in any municipality that is located within the boundaries of all of the following three (3) counties: a county having a population of not less than seventy-one thousand three hundred (71,300) nor more than seventy-one thousand four hundred (71,400), a county having a population of not less than nineteen thousand five hundred (19,500) nor more than nineteen thousand seven hundred seventy-five (19,775), and a county having a population of not less than fifty-one thousand nine hundred (51,900) nor more than fifty-two thousand (52,000), all according to the 2000 federal census or any subsequent federal census; provided, that the municipality is
authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount not to exceed five percent (5\%) of the consideration charged by the operator. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(h) This section shall not apply in any municipality having a population of not less than five thousand two hundred (5,200) nor more than five thousand three hundred (5,300), according to the 2000 federal census or any subsequent federal census, that is located within a county having a population of not less than fifty-one thousand nine hundred (51,900) nor more than fifty-two thousand (52,000), according to the 2000 federal census or any subsequent federal census; provided, that the municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount not to exceed five percent (5\%) of the consideration charged by the operator. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(i) This section shall not apply in any municipality having a population of not less than seven thousand three hundred fifty (7,350) nor more than seven thousand four hundred and ten (7,410), according to the 2000 federal census of population or any subsequent federal census located within a county having a population of not less than twenty-five thousand four hundred and fifty (24,450) nor more than twenty-five thousand five hundred and fifty (25,550), according to the 2000 federal census of population or any subsequent federal census. Any such municipality shall be authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the municipality of each transient in an amount of the consideration charged by the operator as set by ordinance of the governing body. All proceeds received by the municipality from such tax shall be dedicated solely for tourism development. The ordinance shall further set forth the manner of collection and administration of the privilege tax.

(j) This section shall not apply in any city having a population of not less than six thousand nine hundred (6,900) nor more than seven thousand (7,000), according to the 2010 federal census or any subsequent federal census, that is located within a county having a population of not less than thirty-five thousand six hundred (35,600) nor more than thirty-five thousand seven hundred (35,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5\%) of the consideration charged by the operator. All proceeds received by the city from such tax shall be dedicated solely for tourism development. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(k) This section shall not apply in any city having a population of not less than thirty-four thousand six hundred (34,600) nor more than thirty-four thousand seven hundred (34,700), according to the 2010 federal census or any subsequent federal census, that is located within any county having a population of not less than eighty thousand nine hundred (80,900) nor more than eighty-one thousand (81,000), according to the 2010 federal census or any
subsequent federal census; provided, that the city is authorized, after notice and a public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The public shall have not less than thirty (30) days to comment on the levying of the tax after receiving notice from the city and before the public hearing. All proceeds received by the city from the tax shall be dedicated solely for tourism development in Maury County. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(l) This section shall not apply in any city having a population of not less than six thousand eight hundred twenty (6,820) nor more than six thousand eight hundred thirty (6,830), according to the 2010 federal census or any subsequent federal census, that is located within any county having a population of not less than thirty-three thousand three hundred (33,300) nor more than thirty-three thousand four hundred (33,400), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized, after notice and public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The public shall have not less than thirty (30) days to comment on the levying of the tax after receiving notice from the city and before the public hearing. All proceeds received by the city from the tax shall be used for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(m) This section shall not apply in any county having a population of not less than thirteen thousand seven hundred (13,700) nor more than thirteen thousand seven hundred fifty (13,750), according to the 2010 federal census or any subsequent federal census; provided, that the county is authorized to levy a privilege tax by resolution adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The resolution shall set forth the manner of collection and administration of the privilege tax.

(n) Notwithstanding this part to the contrary, by ordinance adopted by a two-thirds (2/3) vote of its legislative body, any municipality having a population of not less than sixty-three thousand (63,000) nor more than sixty-three thousand five hundred (63,500), according to the 2010 federal census or any subsequent federal census, is authorized to adjust the rate of the municipality’s privilege tax upon the privilege of occupancy in any hotel located within the municipality of each transient; provided, however, any adjustment shall be made one (1) time only and shall not exceed two percent (2%) of the consideration charged to the transient by the operator. Any proceeds received by the municipality from any adjustment in the rate shall be used solely for tourism.

(o) This section shall not apply in any city having a population of not less than twenty-nine thousand thirty (29,030) nor more than twenty-nine thousand forty (29,040), which is located within any county having a population of not less than one hundred eighty-three thousand one hundred (183,100) nor more than one hundred eighty-three thousand two hundred (183,200), or
which is located within any county having a population of not less than eighty thousand nine hundred (80,900) nor more than eighty-one thousand (81,000), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed three percent (3%) of the consideration charged by the operator. The proceeds from such tax shall be deposited in a special revenue fund, separate from the general fund, and used solely for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(p) This section shall not apply in any city having a population of not less than two thousand eight hundred (2,800) nor more than three thousand (3,000) that is located within any county having a population of not less than fifty-one thousand four hundred (51,400) nor more than fifty-one thousand five hundred (51,500), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two percent (2%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(q) This section shall not apply in any city having a population of not less than six thousand four hundred forty (6,440) nor more than six thousand four hundred forty-nine (6,449), located within two counties, one of which having a population of not less than sixty-six thousand two hundred (66,200) nor more than sixty-six thousand three hundred (66,300) and the other having a population of not less than one hundred sixty thousand six hundred (160,600) nor more than one hundred sixty thousand seven hundred (160,700), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized, after notice and public hearing, to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely for tourism development purposes. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(r) This section shall not apply in any city having a population of not less than thirteen thousand six hundred (13,600) nor more than thirteen thousand six hundred nine (13,609), according to the 2010 federal census or any subsequent federal census, that is located within any county having a population of not less than thirty-nine thousand eight hundred (39,800) nor more than thirty-nine thousand nine hundred (39,900), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely for tourism development purposes. The ordinance shall set forth the manner of collection and adminis-
tration of the privilege tax.

(s) This section shall not apply in any city having a population of not less than two thousand seven hundred fifty (2,750) nor more than two thousand seven hundred fifty-nine (2,759) that is located within any county having a population of not less than thirty-nine thousand one hundred (39,100) nor more than thirty-nine thousand two hundred (39,200), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from the tax shall be used solely to promote tourism and economic development in the city and for no other purpose. The ordinance shall set forth the manner of collection and administration of the privilege tax.

(t) This section shall not apply in any city that is situated in two (2) or more counties and having a population of not less than eleven thousand four hundred eighty (11,480) nor more than eleven thousand four hundred eighty-nine (11,489), according to the 2010 federal census or any subsequent federal census; provided, that the city is authorized to levy a privilege tax by ordinance adopted by a two-thirds (\(\frac{2}{3}\)) vote of its governing body upon the privilege of occupancy in any hotel located within the city of each transient in an amount not to exceed two and one-half percent (2.5%) of the consideration charged by the operator. All proceeds received by the city from such tax shall be dedicated solely for tourism development. The ordinance shall set forth the manner of collection and administration of the privilege tax.

67-4-1711. Implementation of professional privilege tax incentive for participation in college savings plans.

(a) The department shall assist the board of trustees of the college savings trust fund program in the implementation a professional privilege tax incentive established under § 49-7-805(4) that shall include, but not be limited to, college savings plan inserts in the department’s professional privilege tax notifications, providing college savings plan incentives information with any web site tax payment form, sending other notifications about college savings incentives by electronic means, and providing information about college savings incentives through any other web-based means.

(b) For any insert included in the mailing of renewal notices that causes the total postal weight to be over one ounce (1 oz.) as permitted by the United States postal service, the board of trustees of the college savings trust fund program shall pay the increased cost of mailing.


(a) There shall be exempt from the payment of the excise tax levied under this part the following:

1) Any corporation organized under the laws of Tennessee whose sole expressed corporate purpose is for the furthering of industrial development in communities throughout the state, and doing matters related thereto, and whose stockholders receive no income other than interest or dividends on money invested in such corporation for constructing industrial buildings and whose officers receive no compensation;
(2) Corporations organized for the purpose of erecting, owning or operating a common meeting place for more than one (1) Masonic lodge, more than one (1) Lodge of Odd Fellows, or similar lodges, and which corporations could obtain general welfare charters, and in which corporations all the stock is owned by lodges participating in the common temple or meeting place, regardless of the type of charter held by such operating corporations, except on income received by such corporations as rentals for use for commercial purposes;

(3) Any regulated investment company or investment fund organized as a unit investment trust taxable as a grantor trust under 26 U.S.C. §§ 671-677; provided, that not less than seventy-five percent (75%) of the value of the investments of such regulated investment company or unit investment trust shall be in any combination of bonds of the United States, Tennessee, or any county or any municipality or political subdivision of the state, including any agency, board, authority or commission of the state or its subdivisions;

(4) Federal credit unions, credit unions organized under the laws of other taxing jurisdictions, production credit associations organized under 12 U.S.C. § 2071 et seq., or merged associations under 12 U.S.C. § 2279c-1, production credit associations organized under title 56, chapter 4, part 4, or investment companies organized under title 56, chapter 4, part 3;

(5) Venture capital funds; provided, that, for purposes of this part, a venture capital fund is a limited liability company, limited liability partnership, limited partnership, or business trust, formed and operated for the exclusive purpose of buying, holding, and/or selling securities, including debt securities, primarily in non-publicly traded companies on its own behalf and not as a broker, and the capital of which fund is primarily derived from investments by entities and/or individuals that are not affiliated with the fund or investments by one (1) or more affiliates, if the affiliates also qualify as venture capital funds under this subdivision (a)(5). For purposes of this subdivision (a)(5), the following provisions shall apply:

(A) “Affiliated” means entities that are affiliates or part of an affiliated group;

(B) “Non-publicly traded companies” means any business entity that is not a publicly traded company;

(C) “Primarily” means over fifty percent (50%); and

(D) “Publicly traded company” is any company that is traded on:

(i) A national securities exchange registered under § 6 of the Securities Exchange Act of 1934 or exempted from registration under such act by 15 U.S.C. § 78f because of the limited volume of transactions;

(ii) A foreign securities exchange operating under principles analogous to a national securities exchange;

(iii) A regional or local exchange;

(iv) An interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise; or

(v) On a secondary market or the substantial equivalent of a secondary market, if taking into account all of the facts and circumstances, the owners are readily able to buy, sell or exchange their ownership interest in a manner that is comparable, economically, to trading on an exchange;

(6) Limited liability companies, limited partnerships, and limited liability
partnerships, if all of the following criteria are met:

(A) At least sixty-six and sixty-seven hundredths percent (66.67%) of the activity of the entity is either farming or the holding of one (1) or more personal residences where one (1) or more of the members or partners reside. For purposes of this subdivision (a)(6)(A), the following provisions shall apply:

(i) “Farming” is the growing of crops, nursery products, timber or fibers, such as cotton, for human or animal use or consumption; the keeping of horses, cattle, sheep, goats, chickens or other animals for human or animal use or consumption; the keeping of animals that produce products, such as milk, eggs, wool or hides for human or animal use or consumption; or the leasing of the land to be used for the purposes described in this subdivision (a)(6)(A);

(ii) For this purpose, the activity of the entity shall be considered farming only if at least sixty-six and sixty-seven hundredths percent (66.67%) of its income, including capital gains from the sale of land and other assets used in farming, is derived from farming and at least sixty-six and sixty-seven hundredths percent (66.67%) of its assets, valued at original cost to the entity, are used by the owner or by the owner's lessee or sharecropper for farming. In the event that an asset's original cost to the entity cannot be determined, or there is no original cost to the entity, for purposes of this subdivision (a)(6)(A), the property shall be valued at its fair market value at the time of acquisition by the entity;

(iii) A “personal residence” or “personal residences,” as used in subdivision (a)(6)(A), includes acreage contiguous to the dwelling;

(iv) Any entity that qualifies for franchise tax exemption under this subdivision (a)(6), because of farming activity or because the property has been used as a personal residence for at least five (5) years, shall remain exempt for one (1) year from the end of the calendar year in which it ceases to qualify for the exemption, but only with regard to property and transactions related to property that it held at the time that it last qualified for the exemption. Net worth resulting from sales and other transactions involving real, tangible, or intangible property acquired by the entity after it ceased to qualify for the exemption (after-acquired property) shall be subject to the franchise tax. After-acquired property shall be included in the entity's franchise tax minimum measure. If the entity computes an apportionment formula, any after-acquired property and any compensation or gross receipts related to such property shall be included in the appropriate factors of such formula; and

(v) In order to qualify as a personal residence, the dwelling unit must be occupied for personal use by partners or members of the entity for more days than it is rented to others who are not partners or members of the entity. For purposes of this subdivision (a)(6), Internal Revenue Code § 280A(d)(2), codified in 26 U.S.C. § 280A(d)(2), shall be used to define “personal use”;

(B) At least ninety-five percent (95%) of the voting rights, capital interest or profits of the entity are owned either by natural persons who are relatives of one another or by trusts for their benefit. For this purpose, natural persons shall be considered relatives, if, by blood or adoption, they
are descended from a common ancestor and their relationship with each other is that of a first cousin or closer than that of a first cousin, or if they are spouses of one another;

(7) Limited liability companies, limited liability partnerships, limited partnerships, or business trusts existing on May 1, 1999, on which date and at all times thereafter met all of the following criteria:

(A) Were at least ninety-eight percent (98%) owned by corporate members of an affiliated group as defined in 26 U.S.C. § 1504(a);

(B) Were formed and operated for the exclusive purpose of acquiring notes from members of such affiliated group, accounts receivable, installment sale contracts, and similar evidence of indebtedness obtained in the ordinary course of business by one (1) or more members of such affiliated group;

(C) The assets of which directly or indirectly serve as security for third party borrowings or securitized indebtedness acquired by third parties;

(D) At least eighty percent (80%) of the income therefrom is included in the income of a corporation doing business in Tennessee; and

(E) Such income is subject to the applicable allocation and apportionment rules as found in this part;

(8) Any limited partnership or limited liability company organized exclusively for the purpose of providing affordable housing that meets the following criteria:

(A) The entity must have received an allocation of low-income housing tax credits pursuant to § 42 of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 42; and

(B) An “extended low-income housing commitment” as defined in § 42(h)(6)(B) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 42(h)(6)(B), must be in effect with respect to each residential building owned by the entity for the period covered by the return;

(9) Obligated member entity; provided, that:

(A) For tax years beginning before January 2, 2000, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before September 15, 2000, with the secretary of state;

(B) For tax years beginning on or after July 2, 2004, but before August 1, 2005, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before August 1, 2005, with the secretary of state;

(C) For tax years beginning on or after July 1, 2008, but before October 1, 2009, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before October 1, 2009, with the secretary of state. For all other tax years, the appropriate documentation, as required in subsections (b)-(d), shall be filed on or before the first day of the taxable year for which a return is filed;

(D) To the extent that any obligated member, or any owner of an obligated member, provides limited liability protection, the obligated member entity shall owe the tax otherwise imposed by this part, and by part 21 of this chapter, on the portion of income and equity attributable to such obligated member. For purposes of this subdivision (a)(9)(D), ownership includes any form of ownership, whether in whole, in part, direct or indirect. Also, for purposes of this subdivision (a)(9)(D), estates, trusts that are not taxpayers, not-for-profit entities, or other entities exempt under this section, shall not be deemed to provide limited liability protection;
(E) If an additional obligated member is admitted to the obligated member entity, such obligated member must file the appropriate documentation with the secretary of state within sixty (60) days of such member’s admission; and

(F) For purposes of this subdivision (a)(9), obligated members may be fully liable, even though one (1) or more persons or individuals dealing with the obligated member entity have, by contract, agreed to limit their claims against one (1) or more obligated members or against the obligated member entity;

(10) An entity that satisfies both of the following requirements:

(A) It:
   (i) Is classified as a partnership or trust in accordance with 26 U.S.C. § 7701, and the federal regulations and rulings promulgated under 26 U.S.C. § 7701;
   (ii) Has elected to be treated as a real estate mortgage investment conduit (REMIC) under 26 U.S.C. § 860D;
   (iii) Has elected to be treated as a financial asset securitization investment trust (FASIT) under 26 U.S.C. § 860L; or
   (iv) Is a business trust, as defined in § 48-101-202(a), or is classified as a trust under the laws of the state in which it is created and is disregarded for federal income tax under 26 U.S.C. § 7701, and the federal regulations and rulings promulgated under 26 U.S.C. § 7701, when the commercial domicile of the trustee is not in this state; and

(B) (i) The sole purpose of the entity, except for foreclosures and dispositions of the assets of foreclosures, is the asset-backed securitization of debt obligations, such as first or second mortgages, including home equity loans, trade receivables, whether an open account or evidenced by a note or installment or conditional sales contract, obligations substituted for trade receivables, credit card receivables, personal property leases treated as debt for purposes of the Internal Revenue Code of 1986, home equity loans, automobile loans or similar debt obligations;
   (ii) “Trade receivables” as used in subdivision (a)(10)(B)(i) means obligations arising from the sale of inventory in the ordinary course of business;

(11)(A) Any family-owned noncorporate entity, where substantially all the activity of the entity is either:

   (i) The production of passive investment income; or
   (ii) The combination of the production of passive investment income and farming as defined in (a)(6)(A)(i);

(B) For purposes of this subdivision (a)(11):

   (i) “Family-owned” means that at least ninety-five percent (95%) of the ownership units of the entity are owned by members of the family, which means, with respect to an individual, only:
      (a) An ancestor of such individual;
      (b) The spouse or former spouse of such individual;
      (c) A lineal descendent of such individual, of such individual’s spouse or former spouse, or of a parent of such individual;
      (d) The spouse or former spouse of any lineal descendent described in subdivision (a)(11)(B)(i); or
      (e) The estate or trust of a deceased individual who, while living,
was as described in any of subdivisions (a)(11)(B)(i)-(d);

(ii) A legally adopted child of an individual shall be treated as the child of such individual by blood;

(iii) “Passive investment income” means gross receipts derived from royalties, rents from residential property or farm property, dividends, interest, annuities, and sales or exchanges of stock or securities to the extent of any gains therefrom;

(iv) “Farm property” and “residential property” have the same meaning as in § 67-5-501, except that “residential property” includes any property leased or rented for residential purposes that includes not more than four (4) residential units and “farm property” does not include acreage used for recreational purposes by clubs including golf course playing hole improvements;

(v) Ownership units that are held in trust shall not be treated as owned by members of the family, unless the ownership units are property of a trust described in subdivision (a)(11)(B)(i)(e);

(12)(A) Diversified investing funds; provided, that, for purposes of this part, a diversified investing fund is a limited liability company, limited liability partnership, limited partnership or business trust that meets all of the following requirements:

(i) No less than ninety percent (90%) of the diversified investing fund’s cost of its total assets consist of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as a diversified investing fund;

(ii) No less than ninety percent (90%) of its gross income consists of interest, dividends, and gains from the sale or exchange of qualifying investment securities; and

(iii) Is formed and operated for the primary purpose of buying, holding, or selling qualifying investment securities, on its own behalf and not as a broker, and the capital of which fund is primarily derived from investments by entities or individuals who are not affiliated with the fund;

(B) For purposes of this subdivision (a)(12), the following provisions shall apply:

(i) “Affiliated” means entities that are affiliates or part of an affiliated group. As applied to individuals, “affiliates” means any natural person who, directly or indirectly, has more than fifty percent (50%) ownership interest in the fund. For purposes of this subdivision (a)(12)(B)(i), indirect ownership by an individual includes ownership by any family member of the individual, which means, with respect to the individual:

(a) An ancestor of the individual;

(b) The spouse or former spouse of the individual;

(c) A lineal descendant of the individual, of the individual’s spouse or former spouse or of a parent of the individual;

(d) The spouse or former spouse of any lineal descendant described in subdivision (a)(12)(B)(i)(c); or

(e) The estate or trust of a deceased individual who, while living, was as described in any of the subdivisions (a)(12)(B)(i)(a)-(d);

(ii) “Primary” and “primarily”, over fifty percent (50%); and

(iii) “Qualifying investment securities” include all of the following:
(a) Common stock, including preferred, or debt securities convertible into common stock, and preferred stock;
(b) Bonds, debentures, and other debt securities;
(c) Foreign and domestic currency deposits or equivalents and securities convertible into foreign securities;
(d) Mortgage or asset-backed securities secured by federal, state, or local governmental agencies;
(e) Repurchase agreements and loan participations;
(f) Foreign currency exchange contracts and forward and futures contracts on foreign currencies;
(g) Stock and bond index securities and futures contracts, and other similar financial securities and futures contracts on those securities;
(h) Options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in subdivisions (a)(12)(B)(iii)(a)-(g), inclusive;
(i) Warrants to purchase stock or an ownership interest in an entity;
(j) An ownership interest in a limited liability company, limited liability partnership, limited partnership, or business trust; and
(k) An ownership interest in a general partnership that would otherwise qualify as a diversified investing partnership under this subdivision (a)(12) were it not for its legal status as a general partnership;
(13) Tennessee historic property preservation or rehabilitation entities;
(14) Insurance companies, as defined in § 56-1-102;
(15) Any qualified TNInvestco, as defined in § 4-28-102, that has received an allocation of investment tax credits under the Tennessee Small Business Investment Company Credit Act, compiled in title 4, chapter 28, and continues to participate in the program established by such act;
(16) Any entity that:
   (A) Is owned, in whole or in part, directly by a branch of the armed forces of the United States; and
   (B) Derives more than fifty percent (50%) of its gross income from the operation of facilities that are located on property owned or leased by the federal government and operated primarily for the benefit of members of the armed forces of the United States; and
(17)(A)(i) Any qualified low-income community historic structure owner;
   (ii) Any qualified low-income community historic structure lessee; or
   (iii) Any entity that directly or indirectly owns an interest in a qualified low-income community historic structure owner, a qualified low-income community historic structure lessee, or both, and that has no business operations or assets other than:
      (a) Its investment in the qualified low-income community historic structure owner, the qualified low-income community historic structure lessee, or both;
      (b) Business operations and assets incidental to its investment in the qualified low-income community historic structure owner, the qualified low-income community historic structure lessee, or both; and
      (c) De minimis other operations and assets;
   (B) For purposes of this subdivision (a)(17):
(i) “Qualified low-income community historic structure” means a “certified historic structure,” as defined in § 47 of the Internal Revenue Code (26 U.S.C. § 47), together with any associated contiguous real estate, located in a “low-income community,” as defined in § 45D of the Internal Revenue Code (26 U.S.C. § 45D), and with respect to which more than one hundred million dollars ($100,000,000) of “qualified rehabilitation expenditures,” as defined in § 47 of the Internal Revenue Code (26 U.S.C. § 47), are incurred after January 1, 2015;

(ii) “Qualified low-income community historic structure lessee” means a limited liability company that leases or subleases substantially all of a qualified low-income community historic structure and that has no business operations or assets other than:

(a) Its lease or sublease of the qualified low-income community historic structure;

(b) Operations and assets incidental to leasing and subleasing of the qualified low-income community historic structure; and

(c) De minimis other operations and assets;

(iii) “Qualified low-income community historic structure owner” means a limited liability company that owns a qualified low-income community historic structure and that has no business operations or assets other than:

(a) Its investment in the qualified low-income community historic structure;

(b) Business operations and assets incidental to the ownership, financing, and leasing of the qualified low-income community historic structure; and

(c) De minimis other operations and assets; and

(iv) Any references to the Internal Revenue Code in this subdivision (a)(17) means the Internal Revenue Code in effect on January 1, 2015.

(b)(1) Notwithstanding any law to the contrary, the certificate of a limited partnership may provide that one (1) or more specifically identified limited partners, as named in the certificate of limited partnership, shall be personally liable for all of the debts, obligations and liabilities of the limited partnership to the same extent as a general partner, and if so, each such specifically identified limited partner shall be liable to the same extent as a general partner in a general partnership; provided, that:

(A)(i) In order to be effective, each limited partner so identified must sign the certificate of limited partnership, or an amendment to the certificate of limited partnership containing this provision and such signature must be notarized. The certificate or amendment must contain the following two (2) sentences in all capitalized letters:

“THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE SUCH LIMITED PARTNER TO BE PERSONALLY LIABLE FOR THE DEBTS AND OBLIGATIONS OF THE LIMITED PARTNERSHIP TO THE SAME EXTENT AS A GENERAL PARTNER. PLEASE CONSULT YOUR ATTORNEY.”

(ii) The amendment or certificate may provide that it is only effective if all limited partners make and maintain such an election. In such case the certificate of limited partnership must affirmatively identify each general and limited partner of the limited partnership and state that such persons constitute all partners;
(B) Each such limited partner shall continue to be personally liable for all of the debts, obligations and liabilities of the partnership to the same extent as a general partner would be until:

(i) Such limited partner withdraws from the partnership and the withdrawal is recorded with the certificate of limited partnership at the secretary of state's office; or

(ii) The certificate of limited partnership is amended to strike such limited partner's name as a limited partner electing joint and several liability or, if the certificate of limited partnership provides that all limited partners must elect joint and several personal liability for all of the debts, obligations and liabilities of the limited partnership if any limited partners are to be so liable, an amendment striking one (1) limited partner who continues to be a limited partner shall strike all limited partners. Such document must be executed by the limited partner desiring to cease being so liable and promptly delivered to the general partner or partners and all other partners who are identified in the certificate of limited partnership as being jointly and severally personally liable for the debts, obligations and liabilities of the limited partnership; and

(C) Such limited partnership must have a written partnership agreement that sets forth in reasonable detail:

(i) The purpose of the limited partnership;

(ii) The identity of each general partner;

(iii) The scope of authority within the limited partnership of one or more of the general partners to incur debt or other obligations in the absence of limited partner approval;

(iv) The fact that each limited partner electing to have joint and several liability shall be liable for all the debts and obligations of the limited partnership whether arising by contract, tort, or otherwise or from the actions of the general partner or partners or other limited partners in furtherance of the limited partnership's business or other activity;

(v) The fact that each limited partner may revoke such partner's election to have joint and several unlimited liability and remain a limited partner; and

(vi) The terms and conditions under which one (1) or more general partners may be removed or the limited partnership dissolved and terminated.

(2) A limited partner who is identified in the certificate of limited partnership as being personally liable always has the power, but not necessarily the right, to revoke the election for joint and several liability for the limited partnership's debts and obligations by filing an amendment to the certificate of limited partnership stating that such limited partner revokes such limited partner's election to be personally liable and shall not be liable for any future debts, obligations and liabilities of the limited partnership. Such amendment to the certificate shall be effective immediately except as provided in subdivision (b)(3).

(3) An amendment to the certificate of limited partnership filed pursuant to subdivision (b)(2) is not effective against such parties reasonably relying upon such certificate until the passage of ninety (90) days from the filing of the amendment to the certificate of limited partnership. Nevertheless, such
limited partner or former limited partner shall continue to be liable for all of
the debts, obligations and liabilities of the limited partnership incurred by
the limited partnership while such limited partner assumed such liability,
including, if applicable, the ninety-day period.

(c)(1) Notwithstanding any law to the contrary, the application of registered
limited liability partnership may provide that one (1) or more specifically
identified partners, as named in the application, shall be personally liable
for all of the debts, obligations and liabilities of the registered limited
liability partnership to the same extent as a general partner of a general
partnership; provided, that:

(A)(i) In order to be effective, each partner so identified must sign the
application of registered limited liability partnership, or an amendment
to the application of registered limited liability partnership containing
this provision and such signature must be notarized. The application or
amendment must contain the following two (2) sentences in all capital-
ized letters:

“THE EXECUTION AND FILING OF THIS DOCUMENT WILL
CAUSE SUCH PARTNER TO BE PERSONALLY LIABLE FOR THE
DEBTS AND OBLIGATIONS OF THE LIMITED LIABILITY PART-
NERSHIP TO THE SAME EXTENT AS A GENERAL PARTNER OF
A GENERAL PARTNERSHIP. PLEASE CONSULT YOUR
ATTORNEY.”

(ii) The amendment or application may provide that it is only
effective if all partners make and maintain such an election. In such
case the application of registered limited liability partnership must
affirmatively identify each partner of the limited liability partnership
and state that such persons constitute all partners; and

(B) Each such partner shall continue to be personally liable for all of the
debts, obligations and liabilities of the partnership to the same extent as
a general partner of a general partnership until:

(i) Such partner withdraws from the partnership and the withdrawal
is recorded with the application at the secretary of state’s office; or

(ii) The application of registered limited liability partnership is
amended to strike such partner’s name as a partner electing joint and
several liability or, if the application of limited liability partnership
provides that all partners must elect joint and several personal liability
for all of the debts, obligations and liabilities of the partnership if any
are to be so liable, an amendment striking one (1) partner who has not
withdrawn and continues to be a partner shall strike all partners. Such
document must be executed by the partner desiring to cease being so
liable and promptly delivered to all remaining partners who are iden-
tified in the application of registered limited liability partnership as
being jointly and severally personally liable for the debts, obligations
and liabilities of the partnership to the same extent as a general partner
of a general partnership.

(2) Such limited liability partnership must have a written partnership
agreement that sets forth in reasonable detail:

(A) The purpose of the partnership;

(B) The identity of each partner;

(C) The scope of authority within the partnership of one (1) or more of
the partners to incur debt or other obligations in the absence of partner
approval;

(D) The fact that each partner electing to have joint and several liability
shall be liable for the all debts and obligations of the partnership whether
arising by contract, tort, or otherwise or from the actions of the other
partners in connection with the partnership's business or other activity;

(E) The fact that each partner has the power to revoke such partner's
election to have joint and several unlimited liability and remain a partner;

and

(F) The terms and conditions under which one (1) or more partners may
be removed or the partnership dissolved and terminated.

(3) A partner, who is identified in the application of a limited liability
partnership as being personally liable, always has the power, but not
necessarily the right, to revoke the election for joint and several liability for
the partnership's debts and obligations by filing an amendment to the
application of limited liability partnership stating that such partner has
revoked such partner's election to be liable for the debts and obligations of
the partnership and shall not be liable for any future debts, obligations and
liabilities of the partnership. Such amendment to the application shall be
effective immediately except as provided in subdivision (c)(4).

(4) An amendment to the application of a limited liability partnership
filed pursuant to § 61-1-1001 is not effective against such parties reasonably
relying upon such application until the passage of ninety (90) days from the
filing of the amendment to the application of limited liability partnership.
Notwithstanding the preceding, such partner or former partner will con-
tinue to be liable for all of the debts, obligations and liabilities of the
partnership incurred by the partnership while such partner assumed such
liability.

(d) Notwithstanding any law to the contrary, the articles of a limited
liability company may provide that one (1) or more specifically identified
members, as named in the articles, will be personally liable for all of the debts,
obligations and liabilities of the limited liability company and, if so, each such
specifically identified member shall be liable to the same extent as a general
partner in a general partnership; provided, that:

(1) In order to be effective, each member so identified must sign the
articles, or an amendment to the articles containing this provision. The
amendment or articles may provide that it is only effective if all members
make and maintain such an election. In such case, the articles must
affirmatively identify each member and state that such persons constitute
all of the members of the limited liability company; and

(2) Each such member shall continue to be personally liable for all of the
debts, obligations and liabilities of the limited liability company to the same
extent as a general partner of a general partnership until:

(A) The member withdraws from the limited liability company; or

(B) The articles are amended to strike such member's name as a
member electing joint and several liability or, if the articles provide that
all members must elect joint and several personal liability for all of the
debts, obligations and liabilities of the limited liability company if any are
to be so liable, an amendment striking one (1) member who continues to be
a member shall strike all members. The document must be executed by the
member desiring to cease being so liable and promptly delivered to any
remaining members who are identified in the articles as personally being
jointly and severally liable for the debts, obligations and liabilities of the
limited liability company.

(e)(1) Each person who, pursuant to subdivision (a)(11), enjoys exempt status from franchise and excise taxes shall periodically file such forms and report such information as the commissioner of revenue reasonably prescribes regarding the family-owned noncorporate entity and the family members participating in the family-owned noncorporate entity.

(2) [Deleted by 2013 amendment, effective July 1, 2013.]

(f)(1) Every person claiming exemption from taxation under this section shall file an application for exemption upon a form prescribed by the commissioner. The application shall be filed on or before the fifteenth day of the fourth month following the close of the first tax year for which the person claims the exemption.

(2) Every person claiming exemption from taxation under this section that has previously filed an application for exemption in accordance with subdivision (f)(1) shall, on or before the fifteenth day of the fourth month following the close of the person’s tax year, file an application for renewal of exemption upon a form prescribed by the commissioner.

(3) No person shall be exempt from taxation under this section until the person has filed the application required by subdivision (f)(1) or (f)(2). The commissioner is authorized to accept an application that is filed after the time periods provided in subdivisions (f)(1) and (2). However, when any person fails to timely file the application, there shall be imposed a penalty in the amount of two hundred dollars ($200) per occurrence. The commissioner is authorized to waive the penalty, in whole or in part, for good and reasonable cause under § 67-1-803.

(4) Any person who claims an exemption under this section but fails to meet the criteria for exemption shall be subject to all tax, penalty and interest otherwise applicable under the law.

(5) Notwithstanding subdivisions (f)(1)-(4) to the contrary, the requirements in this subsection (f) shall not apply to any person that qualifies for exemption under subdivision (a)(1), (a)(2), (a)(3), (a)(4), (a)(13), (a)(14) or (a)(15).

67-4-2009. Credits.

The tax imposed by this part shall be in addition to all other taxes and there shall be no credit allowed upon it except the following:

(1) In accordance with § 56-4-217, there shall be credited upon the tax imposed by this part the net amount of gross premiums tax paid that is measured by a period that corresponds to the excise tax period on which the return is based, plus any amount used to offset payment to the Tennessee guaranty association that has not otherwise been recovered, but not including the gross premiums receipts tax paid by fire insurance companies for the purpose of executing the fire marshal law;

(2) When an audit of an excise tax return for any year not barred by the statute of limitations discloses a change in the amount of tax due, there may be applied upon it as a credit any amount that the taxpayer is otherwise entitled to receive either as a credit under part 4 or 5 of this chapter for excise taxes paid, or as a refund thereof under § 67-1-1802. This tax credit allowance may be applied notwithstanding the statute of limitations or the requirement for approval of certain refunds by the commissioner and the
attorney general and reporter if such was made under § 67-1-1802, and also any statutory or regulatory requirement under various items of part 4 or 5 of this chapter that the excise tax be paid prior to the allowance of any credit;  

(3)(A) There shall be allowed against the sum total of the taxes imposed by the franchise tax law, compiled in part 21 of this chapter, and by the excise tax law, compiled in this part, a credit equal to one percent (1%) of the purchase price of industrial machinery purchased during the tax period covered by the return and located in Tennessee. For purposes of this section, “industrial machinery” means:  

(i) “Industrial machinery” as defined by § 67-6-102; or  

(ii) “Computer,” “computer network,” “computer software,” or “computer system” as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware, such as printers, plotters, external disc drives, modems, and telephone units, purchased by a taxpayer in the process of making the required capital investment in Tennessee described in § 67-4-2109(a), if as a result of making such purchase and meeting the other requirements set forth in § 67-4-2109(b), the taxpayer qualifies for the job tax credit provided therein;  

(B) The industrial machinery credit taken on any franchise and excise tax return, however, shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before the credit is taken;  

(C)(i) Any unused credit may be carried forward in any tax period until the credit is taken; however, the credit may not be carried forward for more than fifteen (15) years;  

(ii) If the taxpayer qualifies for the credit provided in subdivision (3)(I)(i), the fifteen-year limitation otherwise applicable to the carry-forward of unused credit shall not apply; provided, that the commissioner of economic and community development and the commissioner of revenue have determined that the allowance of the additional carry-forward is in the best interest of the state;  

(iii) Subdivision (3)(C)(ii) shall apply only to applications received and approved by the commissioner of revenue and the commissioner of economic and community development on or before January 1, 2011;  

(D) If the industrial machinery, for the purchase of which a tax credit has been allowed, is sold or removed from this state during its useful life according to the depreciation guidelines in effect for excise tax purposes, the department shall be entitled to recapture a portion of the credit allowed by increasing the franchise and/or excise tax liability of any taxpayer, for the taxable period during which the machinery was sold or removed, in an amount equal to the percentage of useful life remaining on the industrial machinery at the time of sale or removal times the total credit taken on the purchase of the machinery;  

(E) For purposes of the allowance of the credit against franchise and excise taxes under this section, any taxpayer who is a lessee of new industrial machinery and the original user of the industrial machinery, including a lessee from an industrial development corporation as defined by title 7, chapter 53, or other tax exempt entity, shall be treated as having purchased the machinery during the tax period in which it is placed in service by the lessee, at an amount equal to its purchase price;  

(F) If industrial machinery is leased for a period that constitutes less than eighty percent (80%) of its useful life, then the lessee shall be deemed
to have purchased only a portion of the machinery, at an amount
determined by multiplying the actual purchase price of the machinery by
a fraction, the numerator of which is the lease term, and the denominator
of which is the useful life of the leased machinery;

(G) [Expires July 1, 2015; see (3)(G)(ii)]

(i) Notwithstanding any law to the contrary, the industrial machinery
franchise and excise tax credit provided in this subdivision (3) may be
computed by a general partnership that operates a call center in
Tennessee that is placed in service by the general partnership on or after
June 30, 2003, and that would otherwise qualify for the credit provided
in § 67-4-2109(b)(3)(H). The industrial machinery franchise and excise
tax credit shall be computed as if the general partnership were subject
to franchise and excise tax. With respect to the general partnership tax
year during which a credit is so computed, a partner in the general
partnership that is subject to franchise and excise tax and that directly
holds a first tier ownership interest in the general partnership may take
a percentage of the credit that equals the total amount of the credit for
the general partnership multiplied by the partner's percentage interest
in the general partnership on the last day of the general partnership tax
year against the partner’s franchise and excise tax liability for the
partner’s tax year that includes the last day. The industrial machinery
franchise and excise tax credit passed through from the general part-
nership to the first tier partner under this section shall, in the hands of
the first tier partner, be subject to applicable provisions and limitations
otherwise provided by this section, including carry forward provisions;
provided, that in no case shall the credit or a carryover of a credit be
taken by a business entity, unless it was a partner in the general
partnership and subject to franchise and excise tax at the time the credit
was earned by the general partnership;

(ii) This subdivision (3)(G) shall expire on July 1, 2015; provided, that
any taxpayer that has filed a business plan with the department prior to
July 1, 2015, shall continue to be eligible for the credit;

(H) Notwithstanding any provision to the contrary, a taxpayer that has
established its international, national, or regional headquarters in this
state and has met the requirements to qualify for the credit provided in
§ 67-6-224, or a taxpayer that has established an international, national,
or regional warehousing or distribution hub in this state and has met the
requirements to be a qualified new or expanded warehouse or distribution
facility, shall be allowed to offset up to one hundred percent (100%) of its
franchise and/or excise tax liability by the industrial machinery credit
provided in this subdivision (3), or any carryforward of the industrial
machinery credit, if the commissioner of revenue and the commissioner of
economic and community development determine that increasing the
percentage of offset above that allowed by subdivision (3)(B) is in the best
interests of the state. For purposes of this subdivision (3)(H), “best
interests of the state” means a determination that the taxpayer estab-
lished its headquarters or a warehousing or distribution hub in this state,
or converted a regional headquarters or regional warehousing or distribu-
tion hub in this state into its national or international headquarters or a
national or international warehousing or distribution hub, as a result of
such action. The commissioner of revenue and the commissioner of
economic and community development shall determine the percentage of franchise and/or excise tax liability allowed to be offset, above that otherwise allowed by subdivision (3)(B), and the period during which the increased offset shall continue;

(I)(i) If the taxpayer makes a required capital investment in excess of one billion dollars ($1,000,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to ten percent (10%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(ii) If the taxpayer makes a required capital investment in excess of five hundred million dollars ($500,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to seven percent (7%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(iii) If the taxpayer makes a required capital investment in excess of two hundred fifty million dollars ($250,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to five percent (5%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(iv) If the taxpayer makes a capital investment in excess of one hundred million dollars ($100,000,000) during the investment period, the credit allowed in subdivision (3)(A) shall be equal to three percent (3%) of the purchase price of industrial machinery located in this state and purchased in the process of making the required capital investment. The credit shall be subject to subdivisions (3)(A)-(H), except that a taxpayer making the required capital investment for purposes of this subdivision (3)(I) shall be entitled to the credit for the items listed in subdivision (3)(A)(ii) regardless of whether the taxpayer meets any of the requirements of, or qualifies for, the job tax credit provided in § 67-4-2109(b);

(v) The taxpayer shall file a business plan with the commissioner of revenue in order to qualify for the credit provided in this subdivision (3)(I). The business plan shall be filed on or before the last day of the first fiscal year in which the investment is made and shall describe the
investment. The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the credit in this subdivision (3)(I);

(vi) The credit in this subdivision (3)(I) shall begin to apply in the first year of the investment period; however, if the required capital investment is not met during the investment period, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subdivision (3)(I) for which the taxpayer failed to qualify, plus interest;

(vii) For purposes of this subdivision (3)(I), unless the context otherwise requires:

(a) “Good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the credit provided in this subdivision (3)(I);

(b) “Investment period” means a period not to exceed three (3) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made. The three-year period for making the required capital investment may, for good cause shown, be extended by the commissioner of economic and community development for a reasonable period not to exceed four (4) years for a taxpayer that meets the requirements of subdivision (3)(I)(i) and not to exceed two (2) years for any other taxpayer; and

(c) “Required capital investment” means an increase of a business investment in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction; and

(J) [Expires July 1, 2015; see (3)(J)(vi)]

(i) In addition to the credit provided in subdivision (3)(A), the owner of a qualifying environmental project shall be entitled to a one-time credit in the amount of one and three-fourths percent (1.75%) of the investment in the qualifying environmental project, and such credit shall have the same carry-forward features, limitations and other attributes as are applicable to job tax credits under § 67-4-2109(b)(1). The owner of a qualifying environmental project shall also be provided six (6) annual credits in the amount of one and three-fourths percent (1.75%) of the investment in the qualifying project, and such credits shall have the same carry-forward features, limitations and other attributes as are applicable to enhanced job tax credits under § 67-4-2109(b)(2)(B)(iii), and the entire investment in the qualifying environmental project shall be treated as exempt required capital investment for purposes of § 67-4-2108(a)(6)(G);

(ii) For purposes of this subdivision (3)(J), a “qualifying environmental project” means a project in which the taxpayer makes an investment in excess of one hundred million dollars ($100,000,000) to eliminate mercury from the manufacturing process and operations of one (1) or more existing chlor-alkali manufacturing and ancillary facilities and
equipment in the state;

(iii) The maximum investment in a qualifying environmental project that is eligible for the credits provided under this subdivision (3)(J) is one hundred million dollars ($100,000,000), inclusive of all capital investment and other direct and indirect costs of the project. To be eligible for the credits provided under this subdivision (3)(J), construction of the qualifying environmental project must have commenced on or after January 1, 2011, and construction of the qualifying environmental project must be substantially complete on or before January 1, 2014. The credits provided under this subdivision (3)(J) shall first be available in the later of the year in which the qualifying environmental project is substantially complete or July 1, 2013;

(iv) As a condition to receiving credits under this subdivision (3)(J), the owner of a qualifying environmental project shall agree to maintain an annual average of at least three hundred fifty (350) jobs in the state that meet the requirements set forth in § 67-4-2109(a)(6)(A) for a period of six (6) years after substantial completion of the qualifying environmental project. In the event the owner does not maintain the required number of qualified jobs in a specific year, the annual credit provided under this subdivision (3)(J) for that year shall be reduced in proportion to the percentage of the shortfall;

(v) As a further condition to receiving credits under this subdivision (3)(J), the owner of a qualifying environmental project shall agree to forego any and all claims for credits that may be available to the owner pursuant to § 67-4-2109(b)(1) and (2) in connection with the qualifying environmental project;

(vi) This subdivision (3)(J) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit;

(4) A hospital company filing a franchise/excise tax return on a combined basis as required in § 67-4-2014(e), together with all other members of its combined group filing with it, shall be allowed as a credit against the combined annual franchise/excise tax imposed an amount equal to the lesser of the franchise tax or excise tax so that the combined annual franchise/excise tax of the combined group shall be limited to the greater of the two (2) of them; provided, that this credit shall not apply to tax years beginning on or after January 1, 2007;

(5) A hospital company filing a franchise/excise tax return on a combined basis as described in § 67-4-2014(e), together with all members of its combined group filing with it, shall be allowed as a further credit against the combined annual franchise/excise tax imposed on the group remaining after application of the credit allowed under subdivision (4) an amount equal to four percent (4%) of the cost of medical supplies and medical equipment used by or placed in service by the members of the controlled group in this state during the tax year; provided, that the aggregate amount of the credit allowed to a taxpayer under subdivision (4), together with the credit allowed to a taxpayer under this subdivision (5), shall not exceed nine million dollars ($9,000,000) in any one (1) tax year; and provided, further, that the credit allowed under this subdivision (5) shall not apply to tax years beginning on or after January 1, 2007. A corporation or other entity shall be deemed to have used or placed in service medical supplies and medical equipment used...
or placed in service by a partnership or limited liability company of which it is a partner or member that would be a hospital company, as defined in § 67-4-2004, if it were a corporation or other entity upon which tax is imposed under this part and part 21 of this chapter, and would be a member of its same controlled group, as defined in § 267(f)(1) of the Internal Revenue Code of 1986, codified in 26 U.S.C. § 267(f)(1), if it were a corporation and its partners or members were shareholders. The amount of the cost of such medical supplies and medical equipment that is attributed to and deemed to have been used or placed in service by such corporation or other entity shall be equal to the pro rata portion of the cost of medical supplies and medical equipment used or placed in service by the partnership or limited liability company in the tax year. Such pro rata portion shall be determined based upon the corporation’s or other entity’s percentage of the profits and losses of such partnership or limited liability company during such tax year. As used in this subdivision (5), “medical equipment” has the same meaning as “major medical equipment” as set forth in § 68-11-102(10) [repealed], but without the limitation therein as to the cost thereof; and “medical supplies” means all apparatus, consumable products, appliances, and other tangible personal property, except drugs and medicines, used in provision of patient health care services, including all recordkeeping and documentation in connection with such services;

(6)(A) Except for unitary groups of financial institutions, each taxpayer is considered a separate entity; therefore, in the case of mergers, consolidations, and like transactions, no tax credit incurred by the predecessor taxpayer shall be allowed as a credit on the tax return filed by the successor taxpayer. With the exception set forth in subdivision (6)(B), a credit carryforward may be taken only by the taxpayer that generated it;

(B) Notwithstanding the provisions contained in subdivision (6)(A), when a taxpayer merges out of existence and into a successor taxpayer that has no income, expenses, assets, liabilities, equity or net worth, any qualified Tennessee credit carryover of the predecessor that merged out of existence shall be available for carryover on the return of the surviving successor; provided, that the time limitations for the carryover have not expired;

(C) A unitary group of financial institutions may take any qualified credit that was generated by any group member that is in existence as a member of the group at the end of the group’s tax year; provided, that such credit has not previously been taken by the member itself before it joined the group or by another unitary group of financial institutions at the time the financial institution generating the credit was a member of that group; and provided, further, that the credit carryover shall be subject to the limitations set forth in this subdivision (6);

(7) A credit shall be allowed against the tax imposed by this part in an amount equal to the tax imposed by chapter 2 of this title paid by the taxpayer;

(8)(A) Except as otherwise provided in subdivision (8)(D), there shall be allowed against the sum total of the taxes imposed by the franchise tax law, compiled in part 21 of this chapter, and by the excise tax law, compiled in this part, a credit equal to fifty percent (50%) of the purchase price of brownfield property purchased in Tennessee during the tax period covered by the return for the purpose of a qualified development project;
(B) For the purposes of this subdivision (8), unless the context otherwise requires:

(i) “Brownfield property” means real property that is the subject of an investigation or remediation as a brownfield project under a voluntary agreement or consent order pursuant to § 68-212-224;

(ii) “Capital investment” means a business investment in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction;

(iii) “Investment period” means a period not to exceed five (5) years from the filing of the business plan related to the required capital investment, during which the required capital investment must be made;

(iv) “Non-prime agricultural property” means real property included within the United States department of agriculture land capability classification Classes IV, V, VI, VII and VIII; and

(v) “Qualified development project” means a project consisting of a capital investment of at least twenty-five million dollars ($25,000,000), utilizing at least five (5) acres of brownfield property, or non-prime agricultural property as provided in subdivision (8)(G), and having a business plan approved by the commissioner of revenue in accordance with the applicable provisions of subdivision (8)(E) or (8)(G); 

(C) The credit allowed pursuant to this subdivision (8) shall apply against the excise tax imposed by this part and the franchise tax imposed by part 21 of this chapter; provided, however, that such credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before any credit is taken. Any credit authorized under this subdivision (8)(C) that is unused may be carried forward in any tax period until the credit is taken; provided, that the credit may not be carried forward for more than fifteen (15) years;

(D) If the taxpayer makes an enhanced capital investment equal to or in excess of two hundred million dollars ($200,000,000) during the investment period for the qualified development project, the credit allowed in subdivision (8)(A) shall be equal to seventy-five percent (75%) of the purchase price of the brownfield property purchased in Tennessee for the purpose of the project;

(E)(i) The taxpayer shall file a business plan for the development project with the commissioner of revenue in order to qualify for the credit provided in subdivision (8)(A) or the enhanced credit provided in subdivision (8)(D);

(ii) For purposes of the enhanced credit, the business plan shall be filed on or before the last day of the first fiscal year in which the investment is made and shall describe the capital investment;

(iii) Qualifying plans shall be approved by the commissioner of revenue. At such time, an approval letter authorizing the credit, the value of the credit and the terms of the credit shall be issued. A copy of the approval letter shall be filed by the taxpayer with the department of revenue in any year in which the taxpayer utilizes the credit;
(iv) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the findings contained within the business plan and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the credit in this subdivision (8);

(F) The credit provided in this subdivision (8) shall begin to apply in the first year of the investment period as provided in the business plan; however, if the capital investment is not met during the investment period, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subdivision (8) for which the taxpayer failed to qualify, plus interest;

(G) The aggregate amount of the credits allowed to all taxpayers under this subdivision (8) shall not exceed ten million dollars ($10,000,000) in any one (1) tax year; provided, that in any tax year in which it is determined that credits remain available, the commissioner of revenue and the commissioner of economic and community development, in consultation with the commissioner of agriculture, may open availability to qualified development projects utilizing non-prime agricultural property. Credits for projects utilizing non-prime agricultural property shall be issued in the same manner and under the same terms as credits allowed for projects utilizing brownfield property except that all business plans for such projects shall be approved by the commissioner of economic and community development, in addition to the commissioner of revenue, and in consultation with the commissioner of agriculture;

(H) Notwithstanding any provision of this subdivision (8) to the contrary, no credit shall be allowed unless the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the credit is in the best interest of the state. For purposes of this subdivision (8)(H), “best interest of the state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the project is a result of the credit provided in this subdivision (8); and

(9)(A) Subject to appropriations and the limitation in subdivisions (9)(C) and (D), there shall be allowed against the sum total of the taxes imposed by the Franchise Tax Law of 1999, compiled in part 21 of this chapter, and by this part, a credit equal to six percent (6%) of the purchase price of qualified broadband internet access equipment;

(B) For purposes of this subdivision (9), “qualified broadband internet access equipment” means new equipment placed into service by a service provider to provide broadband internet access services at minimum download speeds of twenty-five megabits per second (25 Mbps) and minimum upload speeds of three megabits per second (3 Mbps) to locations in a tier 3 or tier 4 enhancement county as determined under § 67-4-2109(a), and includes, but is not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, other electronic equipment, fiber optic and copper cables, transmission facilities, and related equipment and property used directly or indirectly to transmit broadband signals;

(C) The credit taken on any franchise and excise tax return, however, must not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before the credit is taken. Any unused
credit may be carried forward in any tax period until the credit is taken. However, the credit may not be carried forward for more than fifteen (15) taxable years; and

(D)(i) The total amount of credit provided to all taxpayers under this subdivision (9) must not exceed five million dollars ($5,000,000) for any calendar year;

(ii) If the total amount of credit claimed by all taxpayers for any calendar year exceeds the limitation in this subdivision (9)(D), the credit to be received by each taxpayer must be the product of five million dollars ($5,000,000) multiplied by the quotient of the credit claimed by the taxpayer divided by the total of all credits claimed by all taxpayers;

(iii) For purposes of applying the limitation in this subdivision (9)(D), a taxpayer must submit an application for the credit allowed under this subdivision (9), in the form prescribed by the department, by October 15 following the calendar year in which the qualified broadband internet access equipment was placed into service. No credit must be allowed under this subdivision (9) to any taxpayer that fails to submit the application by October 15;

(iv) By December 15 following the October 15 deadline set forth in subdivision (9)(D)(iii), the department shall notify the taxpayer of the amount of the credit allowed; and

(v) At any time during the applicable limitations period set out in § 67-1-1501(b), the department is authorized to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of the credit taken by a taxpayer.

67-4-2012. Apportionment formula.

(a)(1) Except as otherwise provided in this part, for tax years beginning prior to July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus twice the receipts factor, and the denominator of the fraction shall be four (4).

(2) Except as otherwise provided in this part, for tax years beginning on or after July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus three (3) times the receipts factor, and the denominator of the fraction shall be five (5).

(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used during the tax period. For this purpose, “property” includes a taxpayer’s ownership share of the real or tangible property owned or rented by any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its property factor only the real and tangible property owned or used by the limited liability company. “Property” also includes a taxpayer’s ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corpora-
tion, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and, therefore, is not subject to Tennessee excise tax. The cost value or rental value of such property shall be determined from the books and records of the entity in which the taxpayer has an interest and such property shall be valued in accordance with subsection (c).

(c)(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. A lessee’s payments to a lessor, or on such lessor’s behalf, as part of rent, or in lieu of rent, shall be included as rent in the property factor of the apportionment formula provided by this section. Except with respect to tangible personal property, for purposes of this subsection (c), payments, such as interest, taxes, insurance, repairs or other items, shall be treated as rent paid by the lessee, if they would have been paid by the lessor if the lease contract or other agreement had not specifically provided that they be paid by the lessee.

(2) For purposes of this section, the value of owned or leased mobile or movable property located both inside and outside of the state of Tennessee during a tax period shall be determined on the basis of the total percentage of time such property is inside the state during the tax period; provided, that the value of an automobile or truck assigned to a traveling employee shall be considered in Tennessee, if the employee’s compensation is assigned to Tennessee for purposes of the taxpayer’s apportionment formula payroll factor, or if such vehicle is licensed in Tennessee.

(d) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period; but the commissioner may require the averaging of monthly values during the tax period, if reasonably required to reflect properly the average value of the taxpayer’s property.

(e) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period. For this purpose, “compensation” includes a taxpayer’s ownership share of the compensation of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its payroll factor only the compensation attributed to the limited liability company. “Compensation” also includes a taxpayer’s share of any specific compensation of any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and which is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

(f) Compensation is paid in this state, if:

(1) The individual’s service is performed entirely inside the state;
(2) The individual’s service is performed both inside and outside the state, but the service performed outside the state is incidental to the individual’s service inside the state; or
(3) Some of the service is performed in the state; and

(A) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(B) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual’s residence is in this state.

(g) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period, and the denominator of which is the total receipts of the taxpayer everywhere during the tax period. For this purpose, “gross receipts” includes a taxpayer’s ownership share of the gross receipts of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its receipts factor only the gross receipts attributed to the limited liability company. “Gross receipts” also includes a taxpayer’s ownership share of gross receipts of any limited partnership, subchapter S corporation, limited liability company, or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

(h) Sales of tangible personal property are in this state, if:

(1) The property is delivered or shipped to a purchaser, other than the United States government, inside this state regardless of the F.O.B. point or other conditions of the sale; or

(2) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and the purchaser is the United States government.

(i)(1) Sales, other than sales of tangible personal property, are in this state if the taxpayer’s market for the sale is in this state. The taxpayer’s market for a sale is in this state:

(A) In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(B) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(C) In the case of sale of a service, if and to the extent the service is delivered to a location in this state;

(D) In the case of intangible property:

(i) That is rented, leased, or licensed, if and to the extent the intangible property is used in this state; provided, that intangible property utilized in marketing a good or service to a consumer is considered used in this state if that good or service is purchased by a consumer who is in this state; and

(ii) That is sold, if and to the extent the property is used in this state; provided, that:

(a) A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is considered used in this state if the geographic area includes all or part of this state;

(b) Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such
intangible property under subdivision (i)(1)(D)(i); and

(c) All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(2) If the state or states of assignment under subdivision (i)(1) cannot be determined, the state or states of assignment shall be reasonably approximated.

(3) If the state of assignment cannot be determined under subdivision (i)(1) or reasonably approximated under subdivision (i)(2), such sale shall be excluded from the numerator and denominator of the sales factor.

(4) If the application of this subsection (i) to a tax year results in a lower apportionment factor than under the application of the apportionment method in subsection (i) as it was in effect prior to January 1, 2016, then a taxpayer may annually elect to apply the apportionment method in subsection (i) as in effect prior to January 1, 2016; provided, however, the election must result in a higher apportionment factor for the tax year, and the taxpayer must have net earnings, rather than a net loss, for that tax year as computed under § 67-4-2006.

(j)(1) For any qualified member of a qualified group, total receipts in this state shall equal the receipts from all sales of tangible personal property that are in this state as determined under subsection (h), plus the arithmetical average of the receipts from all sales other than sales of tangible personal property that are in this state as determined under each of the following alternative methods:

(A) All sales that are in this state as determined under subsection (i); and

(B) All sales, other than sales of tangible personal property, where the earnings-producing activity is performed:

(i) In this state; or

(ii) Both in and outside this state and a greater proportion of the earnings-producing activity is performed in this state than in any other state, based on costs of performance.

(2) For purposes of this subsection (j), the following definitions shall apply:

(A) “Qualified expenditures” means expenditures incurred in transactions with persons who are not members of the qualified group for the following:

(i) Purchasing tangible personal property placed in service in this state by a member of the qualified group; and

(ii) Payroll for employees employed by a member of the qualified group at a facility in this state;

(B) “Qualified group” means an affiliated group that meets both of the following criteria:

(i) One or more members of the group is a qualified member; and

(ii) The members of the group, during the tax period, either:

(a) Incur, in the aggregate, qualified expenditures in an amount greater than one hundred fifty million dollars ($150,000,000); or

(b) Make sales that are subject to the tax imposed by chapter 6 of this title in excess of one hundred fifty million dollars ($150,000,000);

(C) “Qualified member” means a person that is principally engaged in the sale of “telecommunications service,” “mobile telecommunications service,” “Internet access service,” “video programming service,” “direct-to-home satellite television programming service,” or a combination of
such services, as each such term is used or defined in chapter 6 of this title.

(3) The method provided by this subsection (j) for determining the total receipts in this state of a qualified member shall be the only method for determining such receipts under this part.

(k) Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§ 338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.

(l)(1) A taxpayer whose principal business in Tennessee is manufacturing may elect to apportion net earnings to this state by multiplying the earnings by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year and the denominator of which is the total receipts of the taxpayer from any location within or outside of the state during the taxable year.

(2) For purposes of this subsection (l), a taxpayer's principal business in Tennessee is manufacturing if more than fifty percent (50%) of the revenue derived from its activities in this state, excluding passive income, is from fabricating or processing tangible personal property for resale and consumption off the premises. For purposes of this subsection (l), “passive income” means dividend income, interest income, income derived from the sale of securities, and income derived from the licensing or sale of patents, trademarks, tradenames, copyrights, know-how, or other intellectual property.

(3) To elect the method of apportionment provided in this subsection (l), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

(4) Once a taxpayer elects the method of apportionment provided in this subsection (l), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (l) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

67-4-2015. Filing of returns — Payment of tax — Penalty.

(a) The franchise and excise tax return shall be filed with the commissioner on or before the fifteenth day of the fourth month following the close of the taxpayer's taxable year. The return shall coincide with the accounting period covered by the federal return and the appropriate tax must be paid to the department at the time of filing the return. In the event the return covers a period of less than twelve (12) months, the excise tax shall not be prorated.

(b) Every taxpayer, who has a combined franchise and excise tax liability of five thousand dollars ($5,000) or more, after application of all available franchise and excise tax credits, for both the immediately preceding tax year, annualized if the preceding tax year was for less than twelve (12) months, and the current tax year, shall make four (4) quarterly estimated franchise and excise tax payments for its current tax year. A taxpayer electing to compute its
net worth on a consolidated basis shall compute its quarterly estimated franchise and excise tax payments taking into consideration that its net worth will be computed on a consolidated basis. Except as otherwise provided in this section, the minimum amount of each quarterly payment shall be the lesser of:

1. Twenty-five percent (25%) of the combined franchise and excise tax shown on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; or
2. Twenty-five percent (25%) of eighty percent (80%) of the combined franchise and excise tax liability for the current tax year.

(c) The first quarterly payment shall be due on the fifteenth day of the fourth month of the current tax year; the second payment on the fifteenth day of the sixth month; the third payment on the fifteenth day of the ninth month; and the final payment on the fifteenth day of the first month of the next succeeding tax year.

(d) If there is a deficiency or delinquency of any quarterly estimated tax payment required, a penalty in the amount of two percent (2%) for each month of underpayment or part thereof not to exceed a total of twenty-four percent (24%) and interest at the rate prescribed by § 67-1-801 shall be assessed.

(e) The period of underpayment of any required quarterly estimated franchise and excise tax payment shall extend from the date the payment was required to be paid to the earlier of:

1. The fifteenth day of the fourth month following the close of the taxable year; or
2. With respect to all or any portion of the underpayment, the date on which all or any portion of the underpayment is paid.

(f) A quarterly payment of estimated franchise and excise tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment payable for that date.

(g)(1) Notwithstanding this section to the contrary, with respect to the excise tax component of its quarterly estimated franchise and excise tax payments, a taxpayer may elect to calculate that excise tax component in the manner provided by Section 6655(e)(2) of the Internal Revenue Code. For those taxpayers that elect to calculate the excise tax component of their quarterly estimated franchise and excise tax payments in the manner provided by this subsection (g), the franchise tax component of each quarterly estimated payment shall be the lesser of:

(A) Twenty-five percent (25%) of the franchise tax shown on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; or
(B) Twenty-five percent (25%) of eighty percent (80%) of the franchise tax liability for the current tax year.

(2) A taxpayer electing to calculate its quarterly estimated franchise and excise taxes under this subsection (g) shall establish the amount of each estimated payment on a form prescribed by the commissioner.

(h)(1)(A) An extension of time of six (6) months in which to file the franchise and excise tax return shall be granted if, on or before the original due date of the return, the extension request is made as required in subdivision (h)(2) and the taxpayer has paid franchise and excise taxes equal to at least the lesser of:

(i) Ninety percent (90%) of the liability for the tax year for which the
extension is being requested; or

(ii) One hundred percent (100%) of the tax shown due on the tax return for the preceding tax year, annualized if the preceding tax year was for less than twelve (12) months; provided, however, that, if there was no liability for the preceding tax year, the amount paid shall equal the minimum tax amount provided in § 67-4-2119.

(B) A taxpayer electing to compute its net worth on a consolidated basis shall make its franchise, excise tax extension request and compute the payment thereon taking into consideration that its net worth will be computed on a consolidated basis.

(C) Where the taxes paid on or before the original due date of the return do not equal the amount provided in subdivision (h)(1)(A), or if the return is not filed by the extended due date, penalty as provided by § 67-1-804 and interest as provided by § 67-1-801(a) shall attach as though no extension had been granted.

(2) An extension request shall be made as follows:

(A) If the taxpayer is not required to make a tax payment with its extension request, the taxpayer may use either a form prescribed by the commissioner or a copy of the taxpayer’s request for an automatic extension of time to file its federal income tax return for the corresponding tax period. The form shall not be filed on the original due date of the return but, instead, shall be attached to the return filed on or before the extended due date;

(B) If the taxpayer is required to make a tax payment with its extension request and the taxpayer does not file its federal income tax return as a member of a consolidated group, the taxpayer may use either a form prescribed by the commissioner or a copy of the taxpayer’s request for an automatic extension of time to file its federal income tax return for the corresponding tax period. The form shall be filed with the tax payment on or before the original due date of the return; and

(C) If the taxpayer is required to make a tax payment with its extension request and the taxpayer files its federal income tax return as a member of a consolidated group, the taxpayer must use a form prescribed by the commissioner. The form shall be filed with the tax payment on or before the original due date of the return.

(i) Final return status shall apply to the first return that reflects any activity or event giving rise to such status, and shall apply to all subsequent returns filed by the taxpayer. The taxpayer shall file a return for each tax period during which the taxpayer is in final return status. This requirement shall include returns of taxpayers with any remaining assets, activity, equity, or proceeds; or with installment sales attributable to any Tennessee assets regardless of whether the entity has any remaining in-state activity.

(j) The commissioner shall ensure that any new integrated tax system implemented by the department will support the annualization of quarterly estimated payments.

67-4-2109. Credit for gross premiums tax and job tax.

(a) As used in subsection (b):

(1) “Best interests of the state” means a determination by the commissioner of revenue and the commissioner of economic and community devel-
velopment that the capital investment or jobs are a result of the credit provided in this section. In addition to its use in subsection (b), the definition in this subdivision (a)(1) shall apply to this section in its entirety unless otherwise specifically provided;

(2)(A) “Enhancement county” means a county that meets one (1) of the following criteria for any month during the twenty-four (24) months immediately prior to the creation of any qualified job for which a job tax credit is sought pursuant to subsection (b), based on monthly statistics from the department of labor and workforce development:

(i) The average number of dislocated workers in the county exceeds the average number of dislocated workers in this state; or

(ii) The per capita income of the county is less than Tennessee’s average per capita income;

(B) Notwithstanding subdivision (a)(2)(A), based on an annual evaluation as of July 1 of each year, the commissioner of economic and community development may determine that a county qualifies as an enhancement county if the county experiences substantial characteristics of economic distress, including, but not limited to, major loss of employment, recent high unemployment rates, traditionally low levels of family incomes, high levels of poverty and high concentrations of employment in declining industries;

(C) Upon determining that a county qualifies as an enhancement county under subdivision (a)(2)(A) or (a)(2)(B), the department of economic and community development shall designate the county as a tier 1, tier 2, tier 3, or tier 4 enhancement county based on unemployment, per capita income, and poverty levels of all Tennessee counties using statistical data prepared by any agency of the state or federal government no later than July 1 of each year. A list of all tier 1, tier 2, tier 3, and tier 4 enhancement counties shall be published annually by the department of economic and community development;

(3) “Industrial wage job” means a qualified job with wages equal to or greater than the state’s average occupational wage, as defined in § 67-4-2004, for the month of January of the year during which the job was created;

(4) “Investment period” means the period during which qualified jobs are created as a result of the required capital investment; provided, however, that the period shall not exceed three (3) years from the effective date of the business plan;

(5) “Qualified business enterprise” means an enterprise:

(A) In which the business has made the required capital investment necessary to permit the creation or expansion of manufacturing, warehousing and distribution, processing tangible personal property, research and development, computer services, call centers, headquarters facilities, as defined in § 67-6-224(b), back office operations, convention or trade show facilities, or tourism-related businesses, including, but not limited to, restaurants, lodging establishments, or other tourism-related attractions;

(B) In which the business has made the required capital investment necessary to permit the creation or expansion of a repair service facility primarily engaged in providing repairs for aircraft owned by unrelated commercial, governmental or foreign persons; or

(C) That promotes high-skill, high-wage jobs in high-technology areas, emerging occupations or skilled manufacturing jobs in which the business
has made the required capital investment necessary to permit an increase in the number of qualified jobs in that county and that receives an approval from the commissioner of revenue and the commissioner of economic and community development in a manner prescribed by the department of revenue;

(6) “Qualified job” means a job that meets all of the following criteria:

(A)(i) Except as provided in subdivision (a)(6)(A)(ii), the job position is a permanent, rather than seasonal or part-time, employment position providing employment in a qualified business enterprise for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37½) hours per week with minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act, compiled in title 56, chapter 7, part 22; or

(ii) A majority of the duties that the job position entails involve adventure tourism, as defined in § 11-11-203; the qualified business enterprise that created the job position is located in an area designated as an adventure tourism district pursuant to § 11-11-204(c); and the job position is:

(a) A permanent employment position created on or after July 1, 2017, providing employment in a qualified business enterprise for at least twelve (12) consecutive months to a person for at least thirty-seven and one-half (37½) hours per week with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act;

(b) A position providing seasonal employment, as defined in § 50-7-306 for at least twenty-six (26) consecutive weeks, created on or after July 1, 2017, with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act; provided, that, for the purpose of calculating the number of jobs that a qualified business has created under subdivision (b)(1)(C) in order to qualify for the job tax credit, a position of seasonal employment shall be counted as one-half (½) of one (1) job; or

(c) A position providing part-time employment for at least twenty (20) hours per week for twelve (12) consecutive months, created on or after July 1, 2017, with or without minimum health care, as described in the Tennessee Small Employer Group Health Coverage Reform Act; provided, that, for the purpose of calculating the number of jobs that a qualified business has created under subdivision (b)(1)(C) in order to qualify for the job tax credit, a position of part-time employment shall be counted as one-half (½) of one (1) job;

(B) The job position is newly created in this state, and:

(i) For a permanent position under subdivision (a)(6)(A)(i), for at least ninety (90) days prior to being filled by the taxpayer, the job position did not exist in this state as a job position of the taxpayer or of another business entity; or

(ii) For a permanent, part-time, or seasonal position under subdivision (a)(6)(A)(ii), for at least thirty-six (36) months prior to being filled by the taxpayer, the job position did not exist in this state as a job position of the taxpayer or of another business entity;

(C) The job position is filled; provided, however, that a position will be deemed filled if it subsequently becomes vacant but is refilled within a
period of not more than ninety (90) days; and

(D) In the case of back office operations job positions under subdivision (a)(5)(A), the job position must meet the definition of industrial wage job under subdivision (a)(3); and

(7) "Required capital investment", except for convention or trade show enterprises, means an investment of five hundred thousand dollars ($500,000) in real property, tangible personal property or computer software owned or leased in this state valued in accordance with generally accepted accounting principles. For businesses engaged in convention or trade show enterprises, "required capital investment" means an investment of ten million dollars ($10,000,000) in such property in the same manner described for other enterprises. A capital investment shall be deemed to have been made as of the date of payment or the date the business enterprise enters into a legally binding commitment or contract for purchase or construction.

(b)(1) **Job Tax Credit; General Provisions.**

(A) Subject to the requirements set forth in this subsection (b), there shall be allowed to any qualified business enterprise that makes the required capital investment a credit equal to four thousand five hundred dollars ($4,500) for each qualified job created during the investment period.

(B) The qualified business enterprise shall file a business plan with the commissioner in order to qualify for the credit provided by this subsection (b). The business plan shall be filed in a manner prescribed by the commissioner and shall describe the investment to be made, the number of jobs the investment will create, the expected dates the jobs will be filled and the effective date of the plan.

(C) In order to qualify for the credit, the qualified business enterprise must, within the investment period, make the required capital investment and create at least twenty-five (25) qualified jobs; provided, that if the qualified business enterprise is located in a tier 3 enhancement county, the qualified business enterprise must, within the investment period, make the required capital investment and create at least twenty (20) qualified jobs; provided further, that if the qualified business enterprise is located in a tier 4 enhancement county, the qualified business enterprise must, within the investment period, make the required capital investment and create at least ten (10) qualified jobs. The credit provided in subdivision (b)(1)(A) shall first apply in the tax year in which the qualified business enterprise first satisfies the capital investment and job creation requirements and in subsequent tax years within the investment period in which further net increases occur above the level of employment established when the credit was last taken.

(D) The credit shall apply against the franchise tax imposed by this part and the excise tax imposed by part 20 of this chapter; provided, however, that the credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown on the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(E) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or
adjust the findings contained within the business plan and to determine that the business enterprise has complied with all statutory requirements so as to be entitled to the credit.

(F) Nothing in this subsection (b) shall require that the taxpayer establish its commercial domicile in this state in order to receive the credit provided in this subsection (b).

(2) **Job Tax Credit; Additional Annual Credit.** In addition to the credit allowed in subdivision (b)(1), the following tax credit shall be allowed in the circumstances described; provided, that the taxpayer otherwise meets all of the requirements of subdivision (b)(1):

(A) If the qualified business enterprise is located in a tier 2, tier 3, or tier 4 enhancement county, an annual credit shall be allowed as follows:

   (i) If the qualified business enterprise is located in a tier 2 enhancement county, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

   (ii) If the qualified business enterprise is located in a tier 3 enhancement county, the additional annual credit shall be allowed for a period of five (5) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

   (iii) If the qualified business enterprise is located in a tier 4 enhancement county, the additional annual credit shall be allowed for a period of five (5) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D); and

   (iv) The additional annual credit shall equal four thousand five hundred dollars ($4,500) for each qualified job; provided, that the job remains filled by employees during the year in which the credit is taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer’s franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated;

(B) If the qualified business enterprise involves a higher level of investment and job creation, as specifically described in subdivisions (b)(2)(B)(i)-(v), an annual credit shall be allowed as follows:

   (i) If the investment exceeds one billion dollars ($1,000,000,000) and at least five hundred (500) industrial wage jobs are created, the additional annual credit shall be allowed for a period of twenty (20) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

   (ii) If the investment exceeds five hundred million dollars ($500,000,000) and at least five hundred (500) industrial wage jobs are created, the additional annual credit shall be allowed for a period of twelve (12) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

   (iii) If the investment exceeds two hundred fifty million dollars ($250,000,000) and at least two hundred fifty (250) industrial wage jobs
are created, the additional annual credit shall be allowed for a period of six (6) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(iv) If the investment exceeds one hundred million dollars ($100,000,000) and at least one hundred (100) industrial wage jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(v) If the investment exceeds ten million dollars ($10,000,000) and at least one hundred (100) qualified jobs are created that also meet the definition of headquarters staff employees under § 67-6-224 and pay at least one hundred fifty percent (150%) of the state’s average occupational wage for the month of January of the year in which the jobs are created, the additional annual credit shall be allowed for a period of three (3) years beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(vi) The additional annual credit shall equal five thousand dollars ($5,000) for each job specifically described in subdivisions (b)(2)(B)(i)-(v); provided, that the jobs remain filled during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer’s franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated;

(vii) The taxpayer shall be allowed a period not to exceed three (3) years from the effective date of the business plan in order to make the required capital investment necessary to qualify for the additional annual credit allowed under this subdivision (b)(2)(B). If determined to be in the best interests of the state, the three-year period for making the required investment may be extended by the commissioner of economic and community development for a reasonable period not to exceed two (2) additional years, or four (4) additional years if the investment exceeds one billion dollars ($1,000,000,000).

(C) If the qualified business enterprise is located in an area designated as an adventure tourism district pursuant to § 11-11-204(c), an annual credit shall be allowed as follows:

(i) If the qualified business enterprise is located in a tier 1 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least twenty-five (25) qualified jobs;

(ii) If the qualified business enterprise is located in a tier 2 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least nineteen (19) qualified jobs;

(iii) If the qualified business enterprise is located in a tier 3 enhancement county, the additional annual credit shall be allowed if the qualified business enterprise creates at least thirteen (13) qualified jobs;

(iv) If the qualified business enterprise is located in a tier 4 enhancement county, the additional annual credit shall be allowed if the
qualified business enterprise creates at least ten (10) qualified jobs;

(v) The additional annual credit shall be allowed for a period of three (3) years for a qualified business enterprise located in a tier 1 or tier 2 enhancement county, beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D);

(vi) The additional annual credit shall be allowed for a period of five (5) years for a qualified business enterprise located in a tier 3 or tier 4 enhancement county, beginning with the first tax year in which the qualified business enterprise applies the credit in accordance with subdivision (b)(2)(D); and

(vii) The additional annual credit shall equal four thousand five hundred dollars ($4,500) for each qualified job; provided, that the job remains filled by employees during the year in which the credit is being taken. This annual credit may be used to offset up to one hundred percent (100%) of the taxpayer's franchise and excise tax liability for that year. Any unused annual credit, however, shall not be carried forward beyond the year in which the credit originated.

(D) The qualified business enterprise may first apply the credit provided in this subdivision (b)(2) in any tax year after the qualified business enterprise has met all of the requirements of subdivisions (b)(1) and (b)(2); provided, however, that the qualified business enterprise must begin to apply the credit no later than the first tax year following the end of the investment period.

(E) Notwithstanding any provision to the contrary, the circumstances described in subdivisions (b)(2)(A)(i)-(ii) and (b)(2)(B)(i)-(v) shall be deemed to be mutually exclusive and a taxpayer shall not receive a credit under more than one (1) such subdivision for jobs created during a single investment period.

(3) Job Tax Credit; Special provisions. This subdivision (b)(3) shall serve as exceptions to subdivisions (b)(1) and (2). To the extent a conflict exists between this subdivision (b)(3) and subdivision (b)(1) or (b)(2), this subdivision (b)(3) shall control. Otherwise, subdivisions (b)(1) and (2) shall apply to any credits provided under this subsection (b):

(A) The job tax credit allowed in subdivision (b)(1) shall be increased from four thousand five hundred dollars ($4,500) to five thousand dollars ($5,000) if the qualified business enterprise qualifies for the additional annual credit allowed in subdivision (b)(2)(B);

(B) If determined to be in the best interests of the state, the commissioner is authorized to allow the credit to a qualified business enterprise that is located in an enhancement county upon the creation of less than twenty-five (25) qualified jobs. The commissioner of revenue and the commissioner of economic and community development shall determine the number of qualified jobs necessary for the taxpayer to receive the credit;

(C) If the qualified business enterprise is located in a tier 2 enhancement county, the taxpayer shall have three (3) years in order to create the minimum number of qualified jobs necessary to receive the credit. If the qualified business enterprise is located in a tier 3 or tier 4 enhancement county, the taxpayer shall have five (5) years to create the minimum number of qualified jobs necessary to receive the credit;
(D)(i) If the required capital investment exceeds one billion dollars ($1,000,000,000), the time limitations otherwise applicable to the carry-forward of unused job tax credits under subdivision (b)(1)(D) and subdivision (b)(2)(B)(vi) shall not apply, and any unused credit may be carried forward until fully utilized, if the commissioner of revenue and the commissioner of economic and community development have determined that the allowance of the additional carry-forward is in the best interests of the state;

(ii) Subdivision (b)(3)(D)(i) shall apply only to applications received and approved by the commissioner of revenue and the commissioner of economic and community development on or before January 1, 2011;

(E) The commissioner of revenue, with the approval of the commissioner of economic and community development, is authorized to approve job tax credit in cases where the newly created position existed in this state as a job position of the taxpayer or of another business entity less than ninety (90) days prior to being filled by the taxpayer; provided, that all other requirements to obtain the credit have been satisfied by the taxpayer; and provided, further, that the commissioner of revenue and the commissioner of economic and community development have determined that allowance of the credit is in the best interests of the state;

(F) A taxpayer that has established its international, national or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224, or a taxpayer that has established an international, national or regional warehousing or distribution hub in this state and has met the requirements to be a qualified new or expanded warehouse or distribution facility, shall be allowed to offset up to one hundred percent (100%) of its franchise or excise, or both, tax liability by job tax credits, or any carry-forward of the job tax credits, if the commissioner of revenue and the commissioner of economic and community development determine that increasing the percentage of offset permitted to the taxpayer is in the best interests of the state. The commissioner of revenue and the commissioner of economic and community development shall determine the percentage of franchise or excise, or both, tax liability allowed to be offset by this subdivision (b)(3)(F) that otherwise allowed by subdivision (b)(1) and the period during which the increased offset shall continue;

(G) The credits otherwise provided in this subsection (b) shall be allowed for new high-skill, high-wage, qualified jobs in high-technology areas, emerging occupations or skilled manufacturing, regardless of whether net employment is increased; provided, however, that this subdivision (b)(3)(G) shall apply only to new jobs created by a taxpayer who failed to meet the net increase requirement due to worker layoffs or reductions, where such workers have been certified by the federal department of labor's division of trade adjustment assistance as having been adversely affected by foreign trade, so as to be eligible for assistance in accordance with the federal Trade Adjustment Assistance Reform Act of 2002, compiled in U.S.C. title 19. A taxpayer seeking qualification for jobs tax credits under this subsection (b) shall be required to satisfy all other requirements of this subsection (b), and shall be required to provide evidence to the commissioner of revenue of the department of labor's certification of eligibility for assistance for the taxpayer's adversely
affected worker group;

(H) [Expired July 1, 2015; see (3)(H)(ii)]

(i) The credits provided by this subsection (b) may be computed by a
general partnership that establishes and operates a call center in
Tennessee that is placed in service by the general partnership on or after
June 30, 2003, and that would otherwise qualify for the job tax credit
provided in this subsection (b); provided, that the credit shall first apply
in the tax year in which the qualified business enterprise increases net
full-time employment by four hundred (400) or more jobs, and shall then
apply in those subsequent fiscal years in which further net increases
occur above the level of employment established when the credit was
last taken. The credit provided in this subsection (b) may also be
computed by a general partnership that has established an interna-
tional, national or regional headquarters in this state that meets the
definition of a qualified headquarters facility under § 67-6-224 and
would otherwise qualify for the job tax credits provided in this subsec-
tion (b). The amount of the credit shall be computed under this
subsection (b) as if the general partnership were subject to franchise and
excise tax under part 20 of this chapter and this part. With respect to the
general partnership tax year during which a credit is so computed, a
partner in the general partnership that is subject to Tennessee franchise
and excise tax and that directly holds a first tier ownership interest in
the general partnership may take a percentage of the credit that equals
the total amount of the credit for the general partnership multiplied by
the partner’s percentage interest in the general partnership on the last
day of the general partnership tax year against the partner’s franchise
and excise tax liability for the partner’s tax year that includes the last
day. The job tax credit passed through from the general partnership to
the first tier partner under this subsection (b) shall, in the hands of the
first tier partner, be subject to applicable provisions and limitations
otherwise provided by this subsection (b), including carry-forward
provisions; provided, that in no case shall the credit or a carryover
thereof be taken by a business entity, unless it was a partner in the
general partnership and subject to franchise and excise tax at the time
the credit was earned by the general partnership;

(ii) This subdivision (b)(3)(H) shall expire on July 1, 2015; provided,
that any taxpayer that has filed a business plan with the department
prior to July 1, 2015, shall continue to be eligible for the credit;

(I) If determined to be in the best interests of the state, the commis-
sioner of revenue and the commissioner of economic and community
development are authorized to lower the number of jobs that must be
created in order to qualify for the additional annual credit provided in
subdivision (b)(2)(B); provided, however, that the amount of the credit
shall also be reduced in direct proportion to the reduction in the job
creation requirement. Under no circumstances, however, shall the job
creation requirement be lowered by more than fifty percent (50%);

(J) [Expired July 1, 2015; see (3)(J)(ii)]

(i) Any airline company that has established its international, na-
tional or regional headquarters in this state and has met the require-
ments to qualify for the credit provided in § 67-6-224 may elect to
convert any available and unused job tax credit created under subdivi-
sion (b)(1) and any available and unused additional annual credit created under subdivision (b)(2) into a refundable credit which shall be discounted to net present value using the interest rate in effect pursuant to § 67-1-801 on the date of such election; provided, however, that the election shall be available only if the commissioner of revenue and the commissioner of economic and community development determine that allowance of the election is in the best interests of the state;

(ii) This subdivision (b)(3)(J) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(c) In accordance with § 56-4-217, there shall be credited upon the tax imposed by this part the net amount of gross premiums tax paid that is measured by a period that corresponds to the franchise tax period on which the return is based, plus any amount used to offset payment to the Tennessee guaranty association that has not otherwise been recovered, but not including the gross premiums receipts tax paid by fire insurance companies for the purpose of executing the fire marshal law.

(d) When an audit of a tax return for any year not barred by the statute of limitations discloses a change in the amount of tax due, there may be applied upon it as a credit any amount that the taxpayer is otherwise entitled to receive either as a credit under parts 4-6 of this chapter for franchise taxes paid, or as a refund thereof under § 67-1-707. This tax credit allowance may be applied, notwithstanding the statute of limitations or the requirement for approval of certain refunds by the commissioner and the attorney general and reporter, if such was made under § 67-1-707, and also any statutory or regulatory requirement under various sections of parts 4-6 of this chapter that the franchise tax be paid prior to the allowance of any credit.

(e)(1) Each taxpayer is considered a separate entity; therefore, in the case of mergers, consolidations, and like transactions, no tax credit incurred by the predecessor taxpayer shall be allowed as a deduction on the tax return filed by the successor taxpayer. With the exception set forth in subdivision (e)(2), a credit carryforward may be taken only by the taxpayer that generated it.

(2) Notwithstanding the provisions contained in subdivision (e)(1), when a taxpayer merges out of existence and into a successor taxpayer that has no income, expenses, assets, liabilities, equity or net worth, any qualified Tennessee credit carryover of the predecessor that merged out of existence shall be available for carryover on the return of the surviving successor; provided, that the time limitations for the carryover have not expired.

(3) A unitary group of financial institutions may take any qualified credit that was generated by any group member that is in existence as a member of the group at the end of the group’s tax year; provided, that such credit has not previously been taken by the member itself before it joined the group or by another unitary group of financial institutions at the time the financial institution generating the credit was a member of that group; and provided, further, that the credit carryover shall be subject to the limitations set forth in this subsection (e).

(f)(1) As used in this subsection (f), unless the context otherwise requires:

(A) “Full-time employee job” means a permanent, rather than seasonal or part-time, employment position, providing employment for at least twelve (12) consecutive months, to a person for at least thirty-seven and one half (37.5) hours per week, if that person is enrolled in minimal health
care benefits, as described in title 56, chapter 7, part 22; and

(B) “Part-time employee job” means a part-time employment position, providing employment for at least twelve (12) consecutive months, to a person for at least ten (10) hours per week.

(2) A job tax credit of five thousand dollars ($5,000) for each net new full-time employee job, and two thousand dollars ($2,000) for each net new part-time employee job, for a person with disabilities who is receiving state services directly related to such disabilities, shall be allowed against a taxpayer's franchise and excise liability tax for that year; provided, that:

(A) The employment of such individual creates a net increase in the number of persons with disabilities employed by the taxpayer within the ninety-day period immediately preceding the employment;

(B) The taxpayer provides such employment for at least twelve (12) consecutive months and for no less than the minimal hours per week; and for employees enrolled in the minimal health care benefits described in subdivision (f)(1), for respective full-time employment jobs and part-time employment jobs;

(C) The credit allowed by this subdivision (f)(2) for the employment of persons with disabilities shall first apply in the tax year in which the taxpayer increases net new employment of such persons by one (1) or more, and in those subsequent fiscal years in which further net increases occur above the level of such employment established when the credit was last taken;

(D) The taxpayer is not required to make a capital investment in a qualified business enterprise in order to receive the credit allowed by this subdivision (f)(2) for the employment of persons with disabilities; and

(E) The credit provided by this subdivision (f)(2) may be granted only to taxpayers who participate in an existing employment incentive program, pursuant to which persons with disabilities are being served by the department of mental health and substance abuse services, the department of intellectual and developmental disabilities, the division of rehabilitation services of the department of human services, council on developmental disabilities, or any other similar state employment incentive program. Such employment incentive programs shall annually provide to the commissioner of revenue for approval, on or before July 1, a list of their existing employment incentive programs promoting the hiring of disabled individuals.

(3) The taxpayer shall file a plan with the commissioner of revenue, on a form prescribed by the commissioner, in order to qualify for the credit. The form shall be filed on or before the last day of the fiscal year in which the employment begins, and shall state the number of persons with disabilities newly employed. The commissioner of revenue shall certify a taxpayer's participation in one (1) of these programs and the number of persons employed by the taxpayer meeting the criteria established by this subsection (f).

(4) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of credit allowed by this subsection (f), and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the job tax credit.

(5) Subdivision (b)(1)(D), relating to the carryforward of any unused job
tax credit, shall apply to the credit allowed by this subsection (f).

(g) [Expired July 1, 2015; see (g)(11)]

1) For purposes of this subsection (g), “headquarters facility,” “headquarters staff employees,” “investment period,” “new full-time employee job,” “qualified headquarters facility,” and “qualified headquarters facility relocation expenses” shall have the same meanings as defined in § 67-6-224.

2) In addition to the job tax credit provided in subsection (b), there is allowed a credit against a taxpayer’s franchise and excise tax liability equal to any qualified headquarters facility relocation expenses incurred by the taxpayer during the investment period; provided, that the taxpayer meets one (1) of the following criteria:

(A) The taxpayer creates at least one hundred (100) but less than two hundred fifty (250) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;

(B) The taxpayer creates at least two hundred fifty (250) but less than five hundred (500) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;

(C) The taxpayer creates at least five hundred (500) but less than seven hundred fifty (750) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage;

(D) The taxpayer creates at least seven hundred fifty (750) net new full-time employee jobs that pay at least one hundred fifty percent (150%) of this state’s average occupational wage; or

(E) The taxpayer creates at least five hundred (500) net new full-time employee jobs in connection with a capital investment in excess of one billion dollars ($1,000,000,000).

3) Notwithstanding any law to the contrary, the total credit allowed to a taxpayer under this subsection (g) shall not exceed the appropriate dollar amount listed in one (1) of the following subdivisions (g)(3)(A)-(E), multiplied by the number of headquarters staff employee positions relocated by the taxpayer to the qualified headquarters facility during the investment period:

(A) For a taxpayer meeting the requirements in subdivision (g)(2)(A), ten thousand dollars ($10,000);

(B) For a taxpayer meeting the requirements in subdivision (g)(2)(B), twenty thousand dollars ($20,000);

(C) For a taxpayer meeting the requirements in subdivision (g)(2)(C), thirty thousand dollars ($30,000);

(D) For a taxpayer meeting the requirements in subdivision (g)(2)(D), forty thousand dollars ($40,000); and

(E) For a taxpayer meeting the requirement in subdivision (g)(2)(E), one hundred thousand dollars ($100,000).

4) To the extent any amount allowed as a credit under this subsection (g) exceeds the combined tax imposed by this part and by part 20 of this chapter, the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer. Such refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year in which the qualified headquarters facility relocation expense was incurred.

5) If the qualified headquarters facility is not utilized as a headquarters facility for a period of at least ten (10) years from the end of the investment
period, the taxpayer shall be subject to an assessment of tax, plus applicable interest, calculated in accordance with this subdivision (g)(5). The amount of tax assessed under this subdivision (g)(5) shall equal the total credit or refund, or both, taken pursuant to this subsection (g) multiplied by a fraction, the numerator of which is the number of years the facility is not utilized as a headquarters facility and the denominator of which is ten (10). The amount of interest shall be calculated in accordance with § 67-1-801 from the date the facility is no longer utilized as a headquarters facility until the date paid.

(6)(A) If the headquarters staff employee position is not filled in Tennessee during the investment period, the taxpayer shall be subject to an assessment of the total amount of credit or refund taken relating to such employee position pursuant to this subsection (g) plus interest; and

(B) If the headquarters staff employee position does not remain filled in Tennessee for a period of at least five (5) years, beginning from the date such employee position was initially filled in Tennessee, the taxpayer shall be subject to an assessment of the total amount of credit or refund taken relating to such employee position pursuant to this subsection (g), plus interest.

(7) Nothing in this subsection (g) shall require that the taxpayer establish its commercial domicile in this state in order to receive the credit provided in this subsection (g).

(8) The credit provided for by this subsection (g) may be computed by a general partnership that has established an international, national or regional headquarters in this state that meets the definition of a qualified headquarters facility under § 67-6-224 and has qualified for the job tax credit provided for in subsection (c). The amount of the credit shall be allowed under this section as if the general partnership were subject to franchise and excise tax under part 20 of this chapter and this part. With respect to the general partnership tax year during which a credit is so computed, a partner in the general partnership that is subject to this state’s franchise and excise tax and that directly holds a first tier ownership interest in the general partnership may take a percentage of the credit that equals the total amount of the credit for the general partnership multiplied by the partner’s percentage interest in the general partnership on the last day of the general partnership tax year against the partner’s franchise and excise tax liability for the partner’s tax year that includes the last day. The relocation expense credit passed through from the general partnership to the first tier partner under this section shall, in the hands of the first tier partner, be subject to applicable provisions and limitations otherwise provided by this section. In no case shall the credit be taken by a business entity unless it was a partner in the general partnership and subject to franchise and excise tax at the time the credit was earned by the general partnership.

(9)(i) If determined to be in the best interests of the state, the commissioner of revenue and the commissioner of economic and community development are authorized to lower the number of jobs that must be created in order to qualify for the credit provided in this subsection (g); provided, however, that the amount of the credit shall also be reduced in direct proportion to the reduction in the job creation requirement. Under no circumstances, however, shall the job creation requirement be lowered by more than fifty percent (50%).
(ii) If determined to be in the best interests of the state, the commissioner is further authorized to allow a relocation expense credit to any scrap metal processing facility relocating from a central business district or an area adjacent to the central business district and separated only by a waterway. Such credit shall be equal to the amount of relocation expenses incurred and paid by the facility but shall not exceed the amount of credit allowed under subdivision (g)(3)(E) for the relocation of staff employees of a headquarters facility.

(10) Any insurance company, as defined in § 56-1-102, that otherwise meets all of the criteria contained in this subsection (g) and would be subject to the tax imposed by this part and part 20 of this chapter if not for the exemption provided in § 67-4-2008(a)(14), shall be granted the credit provided in this subsection (g) and shall be entitled to a refund as provided in subdivision (g)(4).

(11) This subsection (g) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(h)(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and by the Excise Tax Law, compiled in part 20 of this chapter, an amount equal to either:

(A) Five percent (5%) of a qualified loan or qualified long-term investment made to an eligible housing entity for any eligible activity; or

(B) Three percent (3%) annually of the unpaid principal balance of a qualified loan made to an eligible housing entity for any eligible activity as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(2) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and by the Excise Tax Law, compiled in part 20 of this chapter, an amount equal to either:

(A) Ten percent (10%) of a grant, contribution, or qualified low-rate loan made to an eligible housing entity for any eligible activity; or

(B) Five percent (5%) annually of the unpaid principal balance of a qualified low-rate loan made to an eligible housing entity for any eligible activity as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(3) For purposes of this subsection (h), the following definitions shall apply:

(A) “Eligible activity” means an activity that creates or preserves affordable housing for low-income Tennesseans, an activity to help low-income Tennesseans obtain safe and affordable housing, an activity that builds the capacity of an eligible nonprofit to provide housing opportunities to low-income Tennesseans, and any other activities approved by the executive director of the Tennessee housing development agency and the commissioner of revenue;

(B) “Eligible housing entity” means:

(i) A Tennessee nonprofit corporation with Internal Revenue Code § 501(c)(3) status (26 U.S.C. § 501(c)(3)), including an entity created and controlled by such corporation, or a wholly-owned subsidiary of such corporation, that engages in eligible activity on behalf of such
corporation;
(ii) The Tennessee housing development agency;
(iii) A public housing authority, including an entity created and controlled by such authority, or a wholly-owned subsidiary of such authority, that engages in eligible activity on behalf of such authority; or
(iv) A development district;
(C) “Financial institution” has the definition as provided in § 67-4-2004;
(D) “Low-income” means any individual or family at or below eighty percent (80%) of the applicable area median family income as determined by family size;
(E) “Qualified loan” means a loan that is at least two percent (2%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved, that does not qualify as a qualified low-rate loan;
(F) “Qualified long-term investment” means an equity investment made for a period of more than five (5) years to an eligible housing entity; and
(G) “Qualified low-rate loan” means a loan that is at least four percent (4%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved.

(4) In order to take the credit, the regulated financial institution must maintain a certification from the Tennessee housing development agency establishing entitlement to the credit.

(5) The eligible housing entity receiving the funds must maintain such records as required by the Tennessee housing development agency, to ensure that affordable housing opportunities are being provided.

(6) The department of revenue is authorized to share with the Tennessee housing development agency information necessary to effectuate the purposes of this subsection (h). The Tennessee housing development agency shall be bound by restrictions on disclosure of such information otherwise applicable to the department of revenue.

(7) The commissioner of revenue and the executive director of the Tennessee housing development agency are authorized to promulgate rules and regulations to effectuate the purposes of this subsection (h). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(8) Any unused credit allowed under subdivision (h)(1)(A) or (h)(2)(A) may be carried forward for fifteen (15) years after the tax year in which the credit originated. Any unused credit allowed under subdivision (h)(1)(B) or (h)(2)(B) shall not be carried forward beyond the tax year in which the credit originated.

(i) [Expired July 1, 2015; see (i)(2)]

(1) A taxpayer that has established its international, national, or regional headquarters in this state and has met the requirements to qualify for the credit provided in § 67-6-224 shall be allowed a credit against the franchise tax imposed under this part equal to the rate of tax imposed under § 67-4-2007 multiplied by any net operating loss incurred by the taxpayer during the tax year covered by the return, or properly carried over from a previous tax year, in accordance with § 67-4-2006; provided, that the credit allowed in this subsection (i) shall only be available if the taxpayer is unable to use the loss or loss carryover to offset net income during the current tax year for excise tax purposes. If a net operating loss or loss carryover is used
to calculate a credit under this subsection (i), it shall no longer be available as a deduction for excise tax purposes, and under no circumstances shall the same net operating loss be used for both franchise and excise tax purposes. The credit in this subsection (i) shall only be available upon a determination by the commissioner of revenue and the commissioner of economic and community development that the utilization of net operating losses or loss carryovers against the taxpayer's franchise tax liability is in the best interests of the state. For purposes of this subsection (i), “best interests of the state” means a determination that the taxpayer established its headquarters in this state or converted a regional headquarters in this state into its national or international headquarters as a result of such action. The commissioner of revenue and the commissioner of economic and community development shall determine the period during which the credit provided by this subsection (i) shall be allowed to the taxpayer.

(2) This subsection (i) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(j)(1) For purposes of this subsection (j):

(A) “Qualified expenses” means those expenses incurred in this state that are necessary for the production of a movie or episodic television program in this state; provided, however, that the expenses shall not qualify under this subdivision (j)(1)(A) unless both the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the production and the allowance of the credit are in the best interests of this state. For purposes of this subdivision (j)(1)(A), “best interests of this state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the production is a result of the credit provided in this subsection (j) and that the production is not found to be obscene as defined in § 39-17-901;

(B) “Qualified investor” means any entity that has established a headquarters facility as defined in §67-6-224 that has invested in a qualified production company; and

(C) “Qualified production company” means any entity that incurs at least one million dollars ($1,000,000) in qualified expenses.

(2) A credit in an amount equal to fifteen percent (15%) of any qualified expenses shall be allowed against the combined franchise and excise tax liability of any qualified production company that has established a headquarters facility as defined in §67-6-224. If the qualified production company does not have a headquarters facility as defined in §67-6-224, then any qualified investor shall be allowed a credit equal to the amount of credit to which the qualified production company would have been entitled had it established a headquarters facility as defined in §67-6-224, multiplied by the qualified investor’s percentage ownership interest in the qualified production company.

(3) In order for either a qualified production company or a qualified investor to become entitled to a credit under this subsection (j), the qualified production company shall submit documentation verifying that the qualified expenses have been incurred and paid.

(4) The commissioner shall review the documentation and notify the qualified production company of the approved credit.
(5) Once the qualified production company has been notified of the approved credit, either the qualified production company or the qualified investment company, as appropriate, may submit a claim for the credit. To the extent that any amount allowed as a credit under this subsection (j) exceeds the current and outstanding combined franchise and excise tax liability of the claimant, the amount of such excess shall be deemed an overpayment and shall be refunded to the claimant. For qualified expenses incurred and paid during any tax year, the commissioner is authorized to issue a refund as described in this subdivision (j)(5) prior to the expiration of such tax year if the amount of the approved credit exceeds the claimant’s current and outstanding franchise and excise tax liability on the date of such refund. Any refund under this subsection (j) shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified expenses were incurred. In no case shall a refund for the same qualified expenses be allowed twice.

(6) The credit provided for in this subsection (j) shall not apply to tax years beginning on or after July 1, 2012; provided, that this subdivision (j)(6) shall have no effect on the right of any taxpayer to realize the benefits of any credit provided under this subsection (j) in the event that the commissioner of revenue and the commissioner of economic and community development determine that the taxpayer’s production is in the “best interest of this state” pursuant to subdivision (j)(1)(A) and the taxpayer incurs expenses related to such production prior to July 1, 2012.

(k)(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax law, compiled in this part, and by the Excise Tax law, compiled in part 20 of this chapter, an amount equal to either:

(A) Five percent (5%) of a qualified loan or qualified long-term investment made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund; or

(B) Three percent (3%) annually of the unpaid principal balance of a qualified loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.

(2) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax law, compiled in this part, and by the Excise Tax law, compiled in part 20 of this chapter, an amount equal to either:

(A) Ten percent (10%) of a grant, contribution, or qualified low-rate loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund; or

(B) Five percent (5%) annually of the unpaid principal balance of a qualified low-rate loan made to a community development financial institution that is certified by the United States department of the treasury’s community development financial institutions fund as of December 31 of each year for the life of the loan or fifteen (15) years, whichever is earlier.
whichever is earlier.

(3) For purposes of this subsection (k):

(A) “Financial institution” has the same meaning as defined in § 67-4-2004;

(B) “Qualified loan” means a loan that is at least two percent (2%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved, that does not qualify as a qualified low-rate loan;

(C) “Qualified long-term investment” means an equity investment made for a period of more than five (5) years; and

(D) “Qualified low-rate loan” means a loan that is at least four percent (4%) below the prime rate, as published by the Wall Street Journal at the time the loan is approved.

(4) Any unused credit allowed under subdivision (k)(1)(A) or (k)(2)(A) may be carried forward for fifteen (15) years after the tax year in which the credit originated. Any unused credit allowed under subdivision (k)(1)(B) or (k)(2)(B) shall not be carried forward beyond the tax year in which the credit originated.

(5) Notwithstanding § 47-14-103 or any other provision to the contrary, a community development financial institution, as described in this subsection (k), shall be allowed to charge a rate of interest not to exceed twenty-four percent (24%) per annum.

(l)(1) There shall be allowed, for any financial institution, a credit against the sum total of the taxes imposed by the Franchise Tax Law, compiled in this part, and the Excise Tax Law, compiled in part 20 of this chapter, in an amount equal to ten percent (10%) of the financial institution’s contribution to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund. The credit provided in this subsection (l) shall be allowed each year for a period of ten (10) years, beginning with the tax year in which the contribution is made. Any unused credit allowed under this subsection (l) shall not be carried forward beyond the tax year in which the credit originated.

(2) For purposes of this subsection (l), the loaning of funds by the taxpayer to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund shall constitute a contribution by the taxpayer to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund. If, however, at the close of the tenth year of the period during which the credit is allowed, the taxpayer or its assignee has received repayment, or retains any right to repayment, of all or any portion of the amount contributed to the Tennessee rural opportunity fund or the Tennessee small business opportunity fund or any interest accrued thereon, the department shall be entitled to recapture the credit allowed by increasing the franchise tax liability or the excise tax liability, or both, of the taxpayer by the credit recapture amount for the first tax year following the ten-year period during which the credit is allowed. The credit recapture amount shall be equal to the total amount of credit allowed, plus interest at the rate determined under § 67-1-801 from the date the credit was offset against the taxpayer’s franchise tax liability or the excise tax liability, or both.

(m) [Expired July 1, 2015; see (m)(6)]

(1) As used in this subsection (m):

(A) “Carbon charge” means a tax or fee imposed or levied by the federal or state government, the purpose of which is to reduce the emission of
greenhouse gases. “Carbon charge” may include, but is not limited to, a tax, emission fee or charge, or required purchase of carbon or emission off-sets or credits, whether incurred by or imposed directly on the certified green energy supply chain manufacturer or campus affiliate or imposed on the Tennessee Valley authority or other applicable energy provider and billed to the certified green energy supply chain manufacturer or campus affiliate;

(B) “Certified green energy supply chain manufacturer” means any manufacturer that has made, during the investment period, a required capital investment in excess of two hundred fifty million dollars ($250,000,000) in constructing, expanding or remodeling a facility that is certified by the commissioner of revenue, the commissioner of economic and community development and the commissioner of environment and conservation, in their sole discretion, to be a facility engaged in manufacturing a product that is necessary for the production of green energy;

(C) “Charge for electricity sold” means the total delivered cost of electricity sold to the certified green energy supply chain manufacturer or campus affiliate at the point of delivery to the facility. The charge for electricity sold shall be the total amount due as shown on the customer’s electricity bills over the applicable tax year. Any carbon charge shall be excluded from the charge for electricity sold to the extent the carbon charge is included in the credit allowed in subdivision (m)(4);

(D) “Investment period” means a period not to exceed three (3) years from the filing of the business plan related to qualification as a certified green energy supply chain manufacturer, during which the required capital investment must be made; and

(E) “Maximum certified rate” means a rate expressed as a price per kilowatt hour for calculating the green energy tax credit allowed in subdivision (m)(3) and shall be established through the issuance of a private letter ruling by the commissioner of revenue, which shall be subject to approval by the commissioner of economic and community development and the commissioner of finance and administration and any such maximum certified rate established for a green energy supply chain manufacturer shall apply to any campus affiliate.

(2) The credits provided in this subsection (m) and any other applicable credits, net operating losses or carry-forwards thereof provided and in part 20 of this chapter and this part shall be applied in the following order:

(A) Any credits, net operating losses or carry-forwards thereof available to the certified green energy supply chain manufacturer, campus affiliate, integrated customer or integrated supplier pursuant to this part or part 20 of this chapter, except for those contained in this subsection (m), shall be applied to the taxpayer’s tax liability first;

(B) Any green energy tax credit available pursuant to subdivision (m)(3) shall be applied to the taxpayer’s liability second and shall be refundable as provided in subdivision (m)(3) if the credit exceeds the taxpayer’s remaining liability; and

(C) Any carbon tax credit available pursuant to subdivision (m)(4) shall be applied to the taxpayer’s liability third and shall be refundable as provided in subdivision (m)(4) if the credit exceeds the taxpayer’s remaining liability.

(3) A certified green energy supply chain manufacturer and campus affiliate, integrated customer or integrated supplier of a green energy supply
chain manufacturer shall be allowed a green energy tax credit against the sum total of the taxes imposed by the Franchise Tax Law compiled in this part and the Excise Tax Law compiled in part 20 of this chapter, equal to the amount by which the charge for electricity sold to the certified green energy supply chain manufacturer, campus affiliate, integrated customer or integrated supplier exceeds the charge that would have been made for such total delivered electricity if the maximum certified rate had been applied during the applicable tax year. The Tennessee Valley authority, or the applicable energy provider, shall supply such information as deemed necessary by the commissioner of revenue to verify the amount of the credit. Consistent with subdivision (m)(2), to the extent that any amount allowed as a credit under this subdivision (m)(3), for any tax year, exceeds the combined tax imposed by part 20 of this chapter and this part after the application of all available credits other than the credit provided in subdivision (m)(4), the amount of the excess shall be considered an overpayment and shall be refunded to the taxpayer; provided, however, that the overpayment and the refund shall not exceed, for any one (1) tax year, an amount equal to one million five hundred thousand dollars ($1,500,000) for each two hundred fifty million dollars ($250,000,000) in capital investments made by the certified green energy supply chain manufacturer. The refund shall be subject to the procedures of § 67-1-1802; provided, however, that, notwithstanding any procedure of § 67-1-1802 to the contrary, a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year in which the credit provided by this subdivision (m)(3) was incurred. To the extent any amount allowed as a credit under this subdivision (m)(3) is not applied to the taxpayer’s liability and is not received by the taxpayer as a refund, the credit may be carried forward in perpetuity until it is claimed as a refund or utilized as a credit by the certified green energy supply chain manufacturer pursuant to this subdivision (m)(3). Except for the purpose of receiving a refund or otherwise utilizing credits that have been carried forward, the credit provided for in this subdivision (m)(3) shall cease to be effective on January 1, 2029, and no new credit shall be allowed for tax years ending on or after January 1, 2029.

(4) A certified green energy supply chain manufacturer and any campus affiliates shall be allowed a carbon charge credit against the sum total of the taxes imposed by the Franchise Tax Law compiled in this part and the Excise Tax Law compiled in part 20 of this chapter, equal to any carbon charges incurred by or imposed directly on the certified green energy supply chain manufacturer, campus affiliate or imposed on the Tennessee Valley authority or other applicable energy provider and billed to the certified green energy supply chain manufacturer or campus affiliate during the applicable tax year. The Tennessee Valley authority, or the applicable energy provider, shall supply such information as deemed necessary by the commissioner of revenue to verify the amount of the carbon charge credit. Consistent with subdivision (m)(2), to the extent any amount allowed as a carbon charge credit under this subdivision (m)(4) exceeds the combined tax imposed by this part and by part 20 of this chapter after the application of all other available credits, the amount of the excess shall be considered an overpayment and shall be refunded to the taxpayer. The refund shall be subject to the procedures of § 67-1-1802; provided, however, that, notwithstanding any procedure of § 67-1-1802 to the contrary, a claim for refund must be filed with the commissioner within three (3) years from December 31 of the year
in which the credit provided by this subdivision (m)(4) was incurred.

(5) The investment period for making the required capital investment may be extended by the commissioner of economic and community development for a reasonable period, not to exceed two (2) years, for good cause shown. For purposes of this subdivision (m)(5), “good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the credit provided in this subsection (m).

(6) This subsection (m) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(n) [Expired July 1, 2015; see (n)(2)]

(1) There shall be allowed a credit against a key tenant’s franchise and excise tax liability equal to any qualified medical trade center relocation expenses incurred by the key tenant; provided, however, that such credit shall not exceed an amount equal to ten dollars ($10.00) for each square foot of space within the facility that is leased and occupied by the key tenant. To the extent that any amount allowed as a credit under this subsection (n), for any tax year, exceeds the combined franchise and excise tax after the application of all available credits, the amount of such excess shall be considered an overpayment and shall be refunded to the key tenant. The refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified medical trade center relocation expenses were incurred.

(2) This subsection (n) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(o) [Expired July 1, 2015; see (o)(6)]

(1) For purposes of this subsection (o), “qualified advertising expenses” means advertising expenses that are incurred for the purpose of co-promoting a qualified medical trade center and the State of Tennessee or the City of Nashville; provided, however, that the expenses shall not qualify under this subdivision (o)(1) unless both the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, that the advertising and the allowance of the credit are in the best interests of this state. For purposes of this subdivision (o)(1), “best interests of the state” means a determination by the commissioner of revenue and the commissioner of economic and community development that the advertising is a result of the credit provided in this subsection (o).

(2) A credit in an amount equal to fifteen percent (15%) of any qualified advertising expenses shall be allowed against the combined franchise and excise tax liability of any taxpayer that incurs and pays such qualified expenses.

(3) In order for a taxpayer to become entitled to a credit under this subsection (o), the taxpayer shall submit documentation verifying that the qualified advertising expenses have been incurred and paid.

(4) The commissioner shall review the documentation and notify the taxpayer of the approved credit.

(5) Once the taxpayer has been notified of the approved credit, the taxpayer may submit a claim for the credit. To the extent that any amount
allowed as a credit under this subsection (o), for any tax year, exceeds the combined franchise and excise tax after the application of all available credits, the amount of such excess shall be considered an overpayment and shall be refunded to the taxpayer. The refund shall be subject to the procedures of § 67-1-1802; provided, however, notwithstanding any procedure of § 67-1-1802 to the contrary, that a claim for refund shall be filed with the commissioner within three (3) years from December 31 of the year in which the qualified advertising expenses were incurred.

(6) This subsection (o) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(p) [Expired July 1, 2015; see (p)(2)]

(1) The commissioner of revenue, the commissioner of economic and community development, and the commissioner of finance and administration are authorized, with the approval of the comptroller of the treasury, to jointly establish a program pursuant to which buildings, facilities, or other infrastructure may be developed utilizing a state funding mechanism and pursuant to which the value of tax credits that have been earned by the taxpayer but remain unutilized may be applied, in lieu of payments, toward the purchase or lease of such property pursuant to a contractual agreement between the taxpayer and the program. Such tax credits may include those to which the taxpayer is entitled under this section or under any other provision of this part, part 20 of this chapter, or chapter 6 of this title.

(2) This subsection (p) shall expire on July 1, 2015; provided, that any taxpayer that has filed a business plan with the department prior to July 1, 2015, shall continue to be eligible for the credit.

(q)(1) As used in this subsection (q):

(A) “Business plan” means a job creation plan submitted by a qualified business to the commissioner;

(B) “Community resurgence job tax credit” means the credit provided to a qualified business located in a high-poverty area as provided in this subsection (q);

(C) “Full-time job” means a permanent employment position providing employment for at least twelve (12) consecutive months, to a person for at least thirty-seven and one-half (37.5) hours per week;

(D) “High-poverty area” means a census tract with a poverty level, all population, in excess of thirty percent (30%), according to the American community survey three-year estimates in 2013, and determined decennially thereafter, as compiled by the department of economic and community development in consultation with the office of local government, comptroller of the treasury;

(E) “Qualified business” means a new or existing business located in a high-poverty area according to the most recent decennial determination at the time a business plan is filed with the commissioner; and

(F) “Qualifying job” means:

(i) A full-time job with wages equal to, or greater than, the state’s average occupational wage, as defined in § 67-4-2004, for the month of January of the year during which the job was created;

(ii) The job is newly created in this state and, for at least ninety (90) days prior to being filled by the taxpayer, did not exist in this state as a job of the taxpayer or of another business entity; and
(iii) The job is created within a three-year period from the effective date of the business plan.

(2) In addition to any other credits allowed in this section, there shall be allowed to any qualified business a community resurgence job tax credit equal to two thousand five hundred dollars ($2,500) for each qualifying job created.

(3) The qualified business shall file a business plan with the commissioner in order to qualify for the credit provided by this subsection (q). The business plan shall be filed in a manner prescribed by the commissioner and shall describe the type of business, the number of jobs to be created, the expected dates the jobs will be filled, and the effective date of the plan.

(4) In order to qualify for the credit, the qualified business shall create at least ten (10) qualifying jobs. The credit provided in subdivision (q)(2) shall first apply in the tax year in which the qualified business first satisfies the job creation requirements and in subsequent tax years in which further net increases occur above the level of employment established when the credit was last taken.

(5) The credit shall apply against the franchise tax imposed by this part and the excise tax imposed by the Excise Tax Law of 1999, compiled in part 20 of this chapter; provided, however, that the credit, together with any carry-forward thereof, taken on any franchise and excise tax return shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown on the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(6) The commissioner has the authority to conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of credit allowed by this subsection (q), and to determine that the taxpayer has complied with all statutory requirements so as to be entitled to the community resurgence job tax credit. If it is determined that the taxpayer failed to comply, the taxpayer shall be subject to an assessment equal to the amount of any credit taken under this subsection (q) for which the taxpayer failed to qualify, plus interest.

(7) The aggregate amount of the credits allowed to all taxpayers under this subsection (q) shall not exceed twelve million five hundred thousand dollars ($12,500,000) in any one (1) tax year.

(r)(1) The commissioner shall, no later than January 1, 2018, and by January 1 of each subsequent year, report to the members of the finance, ways and means committees of the house of representatives and the senate with respect to the tax credits claimed under this section and § 67-4-2009 for tax periods ending during the previous fiscal year.

(2) The report shall contain the following information:

(A) The number of taxpayers claiming the credit;
(B) The total amount of credit claimed;
(C) The number of jobs created during the fiscal year as reported by the taxpayer, if the credit is awarded based on jobs created;
(D) The total amount of credit carried forward from a prior tax year; and
(E) The nature of business of the taxpayers claiming the credit, if the nature of the business is available.
Nothing in this subsection (r) authorizes the disclosure of returns, tax information, or tax administration information, as such terms are defined in § 67-1-1701.

67-4-2111. Apportionment of net worth.

(a)(1) Except as otherwise provided in this part, for tax years beginning prior to July 1, 2016, the net worth of a taxpayer doing business both in and outside this state shall be apportioned to this state by multiplying such values by a fraction, the numerator of which shall be the property factor plus the payroll factor plus twice the receipts factor, and the denominator of the fraction shall be four (4).

(2) Except as otherwise provided in this part, for tax years beginning on or after July 1, 2016, the net worth of a taxpayer doing business both in and outside this state shall be apportioned to this state by multiplying such values by a fraction, the numerator of which shall be the property factor plus the payroll factor plus three (3) times the receipts factor, and the denominator of the fraction shall be five (5).

(b)(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6), owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

(2)(A) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the property factor is a fraction computed as follows:

(i) The numerator of which is the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6)(B), owned or rented and used in this state during the tax period; and

(ii) The denominator of which is the average value of the group's real and tangible personal property, excluding exempt inventory, owned or rented and used during the tax period.

(B) Exempt inventory shall be determined on a per member basis. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. The property factor shall be determined based on a pro forma consolidated balance sheet prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of its property factor as follows:

(A) The numerator shall include the average value of the taxpayer's real and tangible personal property, excluding exempt inventory as defined in § 67-4-2108(a)(6)(B), owned or rented and used in this state during the tax period;

(B) In determining the average value of mobile property to be included in the numerator, the value of such property shall be multiplied by a
fraction the numerator of which is the total in-state miles of similarly classified mobile property and the denominator of which is the total everywhere miles of similarly classified mobile property; and

(C) For purpose of computing the fraction in subdivision (b)(3)(B), in-state miles and everywhere miles shall be calculated in accordance with the appropriate provisions of § 67-4-2013(a). For purposes of determining whether mobile property is similarly classified, the classification groupings enumerated in § 67-4-2013(a)(1)-(7) shall be used.

(4) For purposes of this section, “property” includes a taxpayer’s ownership share of the real or tangible property owned or rented by any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its property factor only the real and tangible property owned or used by the limited liability company. “Property” also includes a taxpayer’s ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and, therefore, is not subject to Tennessee franchise tax. The cost value or rental value of such property shall be determined from the books and records of the entity in which the taxpayer has an interest and such property shall be valued in accordance with subsection (c).

(c)(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from sub-rentals. A lessee’s payments to a lessor, or on such lessor’s behalf, as a part of rent, or in lieu of rent, shall be included as rent in the property factor of the apportionment formula provided by this section. Except with respect to tangible personal property, for purposes of this subsection (c), payments, such as interest, taxes, insurance, repairs or other items, shall be treated as rent paid by the lessee, if they would have been paid by the lessor if the lease contract or other agreement had not specifically provided that they be paid by the lessee.

(2) For purposes of this section, the value of owned or leased mobile or movable property located both in and outside Tennessee during a tax period shall be determined on the basis of the total percentage of time such property is in the state during the tax period; provided, that the value of an automobile or truck assigned to a traveling employee shall be considered in Tennessee, if the employee’s compensation is assigned to Tennessee for purposes of the taxpayer’s apportionment formula payroll factor, or if such vehicle is licensed in Tennessee.

(d) The average value of property shall be determined by averaging the values at the beginning and end of the tax period, but the commissioner may require the averaging of monthly values during the tax period, if reasonably required to reflect properly the average value of the taxpayer’s property.

(e)(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.
(2)(A) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the payroll factor is a fraction computed as follows:

(i) The numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation; and

(ii) The denominator of which is the total compensation of the group paid everywhere during the tax period.

(B) The payroll factor shall be determined at the close of business on the last day of the tax year as shown by a pro forma consolidated income statement prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of its payroll factor as follows:

(A) The numerator shall include the total amount paid in this state during the tax period by the taxpayer for compensation;

(B) In determining the portion of compensation to be included in the numerator for personnel performing interstate services, the total compensation for such personnel shall be multiplied by a fraction the numerator of which is the total in-state miles traveled by personnel operating similarly classified mobile property and the denominator of which is the total everywhere miles traveled by personnel operating similarly classified mobile property; and

(C) For purposes of computing the fraction in subdivision (e)(3)(B), in-state miles and everywhere miles shall be calculated in accordance with the appropriate provisions of § 67-4-2013(a). For purposes of determining whether mobile property is similarly classified, the classification groupings enumerated in § 67-4-2013(a)(1)-(7) shall be used.

(4) For purposes of this part, “compensation” has the same meaning as set forth in the Excise Tax Law of 1999, compiled in part 20 of this chapter.

(5) For purposes of this section, “compensation” includes a taxpayer’s ownership share of the compensation of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its payroll factor only the compensation attributed to the limited liability company. “Compensation” also includes a taxpayer’s ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee franchise tax.

(f) Compensation is paid in this state, if:

(1) The individual’s service is performed entirely in the state;

(2) The individual’s service is performed both in and outside the state, but the service performed outside the state is incidental to the individual’s service in the state; or

(3) Some of the service is performed in the state; and:
(A) The base of operations, or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(B) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual’s residence is in this state.

(g)(1) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period, and the denominator of which is the total receipts of the taxpayer everywhere during the tax period.

(2) For a taxpayer electing to compute its net worth on a consolidated basis, and for a member of a captive REIT affiliated group, the receipts factor is a fraction, the numerator of which is the taxpayer’s total receipts in this state during the tax period, and the denominator of which is the group’s total receipts during the tax period. The receipts factor shall be determined for the group at the close of business on the last day of the tax year as shown by a pro forma consolidated income statement prepared in accordance with generally accepted accounting principles wherein transactions and holdings between members of the group and holdings in non-domestic persons have been eliminated.

(3) If a member of an affiliated group apportions its income in accordance with § 67-4-2013(a), then for purposes of computing its net worth on a consolidated basis, the member shall compute the numerator of the receipts factor in accordance with the appropriate provisions of § 67-4-2013(a).

(4) For purposes of this section, “gross receipts” includes a taxpayer’s ownership share of the gross receipts of any general partnership or entity treated as a general partnership for federal income tax purposes in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its receipts factor only the gross receipts attributed to the limited liability company. “Gross receipts” also includes a taxpayer’s ownership share of gross receipts of any limited partnership, subchapter S corporation, limited liability company, or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly, through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee franchise tax.

(h) Receipts from sales of tangible personal property are in this state, if the:

(1) Property is delivered or shipped to a purchaser, other than the United States government, in this state regardless of the F.O.B. point or other conditions of the sale; or

(2) Property is shipped from an office, store, warehouse, factory or other place of storage in this state and the purchaser is the United States government.

(i)(1) Sales, other than sales of tangible personal property, are in this state if the taxpayer’s market for the sales is in this state. The taxpayer’s market for a sale is in this state:

(A) In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(B) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(C) In the case of sale of a service, if and to the extent the service is
delivered to a location in this state; and

(D) In the case of intangible property:

(i) That is rented, leased, or licensed, if and to the extent the intangible property is used in this state; provided, that intangible property utilized in marketing a good or service to a consumer is considered used in this state if that good or service is purchased by a consumer who is in this state; and

(ii) That is sold, if and to the extent the property is used in this state; provided, that:

(a) A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is considered used in this state if the geographic area includes all or part of this state;

(b) Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (i)(1)(D)(i); and

(c) All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(2) If the state or states of assignment under subdivision (i)(1) cannot be determined, the state or states of assignment shall be reasonably approximated.

(3) If the state of assignment cannot be determined under subdivision (i)(1) or reasonably approximated under subdivision (i)(2), such sale shall be excluded from the numerator and denominator of the sales factor.

(4) If the application of this subsection (i) to a tax year results in a lower apportionment factor than under the application of the apportionment method in this subsection (i) as it was in effect prior to January 1, 2016, then a taxpayer may annually elect to apply the apportionment method in this subsection (i) as in effect prior to January 1, 2016; provided, however, the election must result in a higher apportionment factor for the tax year, and the taxpayer must have net earnings, rather than a net loss, for that tax year as computed under § 67-4-2006.

(j)(1) For any qualified member of a qualified group, total receipts in this state shall equal the receipts from all sales of tangible personal property that are in this state as determined under subsection (h), plus the arithmetical average of the receipts from all sales other than sales of tangible personal property that are in this state as determined under each of the following alternative methods:

(A) All sales that are in this state as determined under subsection (i); and

(B) All sales, other than sales of tangible personal property, where the earnings-producing activity is performed:

(i) In this state; or

(ii) Both in and outside this state and a greater proportion of the earnings-producing activity is performed in this state than in any other state, based on costs of performance.

(2) For purposes of this subsection (j), the following definitions shall apply:

(A) “Qualified expenditures” means expenditures incurred in transactions with persons who are not members of the qualified group for the
following:
(i) Purchasing tangible personal property placed in service in this state by a member of the qualified group; and
(ii) Payroll for employees employed by a member of the qualified group at a facility in this state;
(B) “Qualified group” means an affiliated group that meets both of the following criteria:
(i) One or more members of the group is a qualified member; and
(ii) The members of the group, during the tax period, either:
(a) Incur, in the aggregate, qualified expenditures in an amount greater than one hundred fifty million dollars ($150,000,000); or
(b) Make sales that are subject to the tax imposed by chapter 6 of this title in excess of one hundred fifty million dollars ($150,000,000);
(C) “Qualified member” means a person that is principally engaged in the sale of “telecommunications service,” “mobile telecommunications service,” “Internet access service,” “video programming service,” “direct-to-home satellite television programming service,” or a combination of such services, as each such term is used or defined in chapter 6 of this title.
(3) The method provided by this subsection (j) for determining the total receipts in this state of a qualified member shall be the only method for determining such receipts under this part.
(k) Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§ 338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.
(l)(1) A taxpayer whose principal business in Tennessee is manufacturing may elect to apportion net worth to this state by multiplying such values by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year and the denominator of which is the total receipts of the taxpayer from any location within or outside of the state during the taxable year.
(2) For purposes of this subsection (l), a taxpayer’s principal business in Tennessee is manufacturing if more than fifty percent (50%) of the revenue derived from its activities in this state, excluding passive income, is from fabricating or processing tangible personal property for resale and consumption off the premises. For purposes of this subsection (l), “passive income” means dividend income, interest income, income derived from the sale of securities, and income derived from the licensing or sale of patents, trademarks, tradenames, copyrights, know-how, or other intellectual property.
(3) To elect the method of apportionment provided in this subsection (l), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.
(4) Once a taxpayer elects the method of apportionment provided in this subsection (l), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (l) for a period of five (5) tax years, beginning with the tax year in which the taxpayer
revoked the previous election.

(5) Notwithstanding any other provision of law, prior to July 1, 2033, or any earlier date on which no bonds issued pursuant to title 9, chapter 9, and outstanding as of July 1, 2013, shall remain outstanding, this subsection (l) shall become operative only for such fiscal years as to which the state funding board shall have certified as provided by § 9-9-104(b).

67-4-2301. Short title. [Effective on July 1, 2019.]

This part shall be known and may be cited as the “Special User Privilege Tax Law.”

67-4-2302. User privilege tax generally. [Effective on July 1, 2019.]

(a) There is levied on the purchase, use, importation for use, or consumption of the goods and services named in this part, at the rates specified by this part, a user privilege tax to be paid by the purchaser, user, or consumer.

(b) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part. All persons subject to the tax levied by this part are required to register with the department of revenue.

(c) The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-326, 67-6-328, 67-6-329, 67-6-331, 67-6-340 and 67-6-384 are applicable to the tax levied under this part.

(d)(1)(A) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the purchase price arising from the purchase, use, importation for use, or consumption of the goods and services taxed pursuant to this part during the preceding calendar month.

(B) At the time of transmitting the return required by this subsection (d) to the commissioner, the dealer shall remit to the commissioner with the return the amount of tax due, and failure to so remit the tax shall cause the tax to become delinquent.

(2)(A) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(B) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(3)(A) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner’s delegates.

(B) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax; and any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy of the assessment, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.
(4)(A) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of special user privilege tax owed to the state, and the amount of the person’s purchases, uses, importations for use, or consumption taxable under this part, and other books of account that may be necessary to determine the amount of tax, and all those books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(B) All the books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

(e) Any tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

67-4-2303. Tax on water and energy fuels — Exemptions. [Effective on July 1, 2019.]

(a) There is levied a tax of one and one half percent (1.5%) on the purchase price of water, and a tax of one and one half percent (1.5%) on the purchase price of gas, electricity, fuel oil, coal, and other energy fuel, sold to or used by manufacturers.

(b) For the purpose of this section, “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale.

(c) Water, gas, electricity, fuel oil, coal, and other energy fuel sold to or used by manufacturers shall be exempt from the tax levied by this section whenever it may be established to the satisfaction of the commissioner, by separate metering or otherwise, that the substance is exclusively used directly in the manufacturing process, coming into direct contact with the article being fabricated or processed by the manufacturer, and being expended in the course of the contact. Whenever the commissioner determines that the use of the substance by a manufacturer meets such test, the commissioner shall issue a certificate evidencing the entitlement of the manufacturer to the exemption. The certificate may be revoked by the commissioner at any time upon a finding that the conditions precedent to the exemption no longer exist. The commissioner’s action as to the granting or revoking of a certificate shall be reviewable solely by a petition for common law certiorari addressed to the chancery court of Davidson County.

(d) Any water or energy fuel used by a manufacturer in fabricating or processing tangible personal property for resale shall be exempt from the tax imposed by this section when the water or energy fuel is produced or extracted directly by the manufacturer from facilities owned by the manufacturer or in the public domain.

(e) Notwithstanding the requirement of direct contact, there shall be exempt entirely from the tax imposed by this section electricity used to generate radiant heat for production of heat-treated glass when sold to or used by manufacturers; provided, however, that the manufacturer has applied for and received a certificate of exemption as required by this section.

(f)(1) The tax levied by this section shall also apply to the use of such substances by a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or
by a corporation affiliated with the manufacturing corporation such that:

(A) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or
(B) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(2) “Packaging”, as used in subdivision (f)(1), refers only to the fabrication or installation, or both, of that packaging that will accompany the automotive aftermarket product when sold at retail. The tax shall apply only to such substances used in the packaging process, if the use is established to the satisfaction of the commissioner by separate metering or otherwise.

(g) Notwithstanding the requirement of direct contact, natural gas used to generate heat for the production of primary aluminum and aluminum can sheet products when sold to or used by manufacturers shall be exempt from the tax imposed by this section; provided, however, that the manufacturer applies for and receives a certificate of exemption as required by this section.

(h) There is also levied a tax of one and one half percent (1.5%) on the purchase price of electricity sold to or used by a qualified data center as defined in § 67-6-102.

(i) (1) The tax collected on the use of water shall be distributed as follows:

(A) Sixty-seven percent (67%) shall be deposited in the state general fund; and
(B) The remaining thirty-three percent (33%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion that the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census or other census authorized by law.

(2) The tax collected on the use of gas, electricity, fuel oil, coal, and other energy fuel shall be deposited in the state general fund.

### 67-4-2304. Tax on energy purchased from an energy resource recovery facility. [Effective on July 1, 2019.]

(a) There is levied a tax of seven percent (7%) on the purchase price of energy in the form of steam or chilled water purchased from an energy resource recovery facility operated in a county with a metropolitan form of government.

(b) The tax collected pursuant to this section shall be deposited in the state general fund.

### 67-4-2305. Tax on tangible personal property sold to common carriers for use outside the state. [Effective on July 1, 2019.]

(a) There is levied a tax at the rate of five and one quarter percent (5.25%) on the purchase price of tangible personal property, excluding items listed in §§ 67-4-2307, 67-4-2701, 67-6-302, 67-6-313(i), 67-6-321, and 67-6-331, sold and delivered to common carriers in this state for use outside this state.

(b) The tax collected under this section shall be distributed as follows:

(1) Seventy-one and forty-three hundredths percent (71.43%) shall be deposited in the state general fund; and

(2) The remaining twenty-eight and fifty-seven hundredths percent (28.57%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and
to counties in the proportion that the population of unincorporated areas of
the county bears to the aggregate population of the state, according to the
most recent federal census or other census authorized by law.
(c) This section does not apply to sales of food and food ingredients, candy,
dietary supplements, alcoholic beverages, tobacco and fuel.

67-4-2306. Exemption for articles of tangible personal property im-
ported for export or produced for export. [Effective on
July 1, 2019.]

It is not the intention of this part to levy a tax upon articles of tangible
personal property imported into this state for export, or produced or manufac-
tured in this state for export. If the sale of tangible personal property imported
into this state is sourced to this state, this exemption shall apply; provided, that
the purchaser's use of the tangible personal property imported into this state is
limited to storage, inspection, or repackaging for shipment of the property for
export outside this state.

67-4-2307. Exemption for certain property and services. [Effective on
July 1, 2019.]

(a) The taxes imposed by this part shall not apply to any property or services:
(1) Upon which the sales or use tax imposed by chapter 6 of this title has
been paid;
(2) Upon which a sales or use tax was previously legally imposed and
collected by another state, at a rate equal to or greater than the rate of tax
provided for in this part; or
(3) Upon which another state has previously legally imposed and collected
a tax substantially similar to the tax imposed by this part, at a rate equal to
or greater than the rate of tax provided for in this part.
(b) If the taxes described in subsection (a) are at a rate lesser than the rate
imposed by this part, the tax imposed by this part shall be at the difference
between the rate of tax imposed by this part and the rate of the tax described in
subsection (a).
(c) Notwithstanding subsections (a) and (b), the tax levied by this part shall
apply without reduction for any sales or use tax, or tax substantially similar to
the tax levied by this part, that is paid to another state on the same transac-
tion, if that state does not have the first right to tax or has no statutory provisions to
reduce its sales or use tax, or tax substantially similar to the tax levied by this
part, by any payment of the tax levied by this part. Each taxpayer seeking a
reduction of the tax levied by this part due to payment of a sales or use tax or
tax substantially similar to the tax levied by this part to another state on the
same transaction shall furnish evidence to the satisfaction of the commissioner
that the tax statutes of the other state would allow a reduction of its sales or use
taxes or tax substantially similar to the tax levied by this part in like factual
situations.
(d) The taxpayer shall bear the burden of maintaining documentary proof
that the taxes described in subsection (a) have been paid.
67-4-2401. Tax on video programming service. [Effective on July 1, 2019.]

(a) There is levied a privilege tax of nine percent (9%) of the gross charge for providing video programming services as defined in § 67-6-102, when the services are delivered to the subscriber at a location in this state.

(b) The tax shall not apply to the first fifteen dollars ($15.00) of the gross charges for the video programming services.

(c) The tax collected under this section shall be distributed as follows:

1. Eighty-two percent (82%) shall be deposited to the state general fund; and
2. The remaining eighteen percent (18%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law.

67-4-2402. Tax on satellite television service. [Effective on July 1, 2019.]

(a) There is levied a privilege tax of eight and one-quarter percent (8.25%) of the gross charge for services provided by a direct-to-home satellite service provider, when the services are delivered to the subscriber at a location in this state.

(b) The tax collected under this section shall be deposited to the state general fund.

67-4-2403. Collection of tax — Notice to customers. [Effective on July 1, 2019.]

(a) The taxes levied in this part shall be collected from the dealer as defined in § 67-6-102 and paid at the time and in the manner provided in this part. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The providers shall indicate in some definite manner whether their customers are paying this privilege tax. This indication must be stated on the ticket, invoice, or other record given to the customer.

67-4-2404. When taxes due and payable. [Effective on July 1, 2019.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of services taxable under this chapter during the preceding calendar month.

(b) At the time of transmitting the return required under this part to the commissioner, the dealer shall remit to the commissioner with the return the amount of tax due, and failure to so remit the tax shall cause the tax to become delinquent.
67-4-2405. Administration and enforcement. [Effective on July 1, 2019.]

(a) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(2) Rules and regulations not inconsistent with this part, when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to this part.

67-4-2406. Failure to file — Assessment. [Effective on July 1, 2019.]

(a) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax. Any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy of the assessment, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2407. Maintenance of records. [Effective on July 1, 2019.]

(a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax levied by this part owed to the state, and the amount of the person's gross receipts taxable under this part, and other books of account that may be necessary to determine the amount of tax under this part, and the books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(b) The books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

67-4-2408. Exemptions. [Effective on July 1, 2019.]

The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, and 67-6-384 are applicable to the tax levied under this part. In addition, all sales made to the state or any county or municipality within the state shall be exempt from the tax levied under this part.

67-4-2409. Exemption for video programming services or direct-to-home satellite services sold for resale — “For resale” defined. [Effective on July 1, 2019.]

The tax imposed by this part shall not apply when the video programming
services or direct-to-home satellite services are sold for resale. “For resale” means that the customer of the video programming service or direct-to-home satellite service provider purchases the services, sells those services to others, and is liable for the tax imposed by this part, or for the sales tax imposed by chapter 6 of this title, on its sales of those specific services. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale. In cases where a customer purchases some services for resale and others for the customer’s use and consumption, the seller shall separate the taxable and resale amounts on the bill, invoice, or statement provided to its customer.

67-4-2410. Credit for bad debts arising from sale. [Effective on July 1, 2019.]

A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from the sale, in any return filed under this part. Sections 67-6-507(e) and 67-1-1802(d) shall apply to the credit.

67-4-2501. Tax on dyed diesel fuel. [Effective on July 1, 2019.]

(a) There is levied a privilege tax of seven percent (7%) of gross charges on the retail sale of dyed diesel fuel, as “dyed diesel fuel” is defined in § 67-3-103. For purposes of this part, retail sale shall mean the same as defined in § 67-6-102.

(b) The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be other than a “retail sale” is in fact not a retail sale.

(c) The tax collected under this section shall be deposited to the state general fund.

67-4-2502. Collection of tax — Notice to customers. [Effective on July 1, 2019.]

(a) The tax shall be collected from the dealer as defined in § 67-6-102 and paid at the time and in the manner provided in this part. The tax imposed by this part shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether its customers are paying this privilege tax. This indication shall be stated on the ticket, invoice, or other record given to the customer.

67-4-2503. Exemptions. [Effective on July 1, 2019.]

Sales to governmental entities that are exempt from the sales tax imposed by chapter 6 of this title, and sales of fuel to a qualified farmer or nurseryman, as defined in § 67-6-207 for agricultural purposes, as defined in § 67-3-103, shall be exempt from the tax imposed by this part. Sales of dyed diesel fuel taxed per gallon by § 67-3-202 are exempt from the tax imposed by this part.

67-4-2504. When taxes due and payable. [Effective on July 1, 2019.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax
payable under this part, it shall be the duty of all dealers on or before the
twentieth day of each month to transmit to the commissioner returns showing
the gross charges of fuel taxable under this part during the preceding calendar
month.

(b) At the time of transmitting the return required under this section to the
commissioner, the dealer shall remit to the commissioner with the return the
amount of tax due, and failure to so remit the tax shall cause the tax to become
delinquent.

67-4-2505. Administration and enforcement. [Effective on July 1,
2019.]

(a) The commissioner of revenue shall administer and enforce the assessment
and collection of the taxes levied by this part.
(b)(1) The commissioner is authorized to prescribe all rules and regulations
necessary for the administration of this part, and for the collection of the taxes
imposed by this part.
(2) Rules and regulations not inconsistent with this part when promul-
gated by the commissioner, and approved by the attorney general and
reporter, shall have the force and effect of law.
(c) The commissioner is empowered to examine the books and records of any
person subject to this part.

67-4-2506. Failure to file — Assessments. [Effective on July 1, 2019.]

(a) When any person fails to file any form, statement, report or return
required to be filed with the commissioner, after being given written notice of the
failure to file, the commissioner is authorized to determine the tax liability of the
person from whatever source of information may be available to the commis-
sioner or the commissioner’s delegates.

(b) An assessment made by the commissioner pursuant to this authority shall
be binding as if made upon the sworn statement, report or return of the person
liable for the payment of the tax; and any person against whom the assessment
is lawfully made shall thereafter be estopped to dispute the accuracy of the
assessment, except upon filing a true and accurate return, together with
supporting evidence that the commissioner may require, indicating precisely the
amount of the alleged inaccuracy.

67-4-2507. Maintenance of records. [Effective on July 1, 2019.]

(a) It is the duty of every person required to pay a tax under this part to keep
and preserve records showing the gross amount of tax levied by this part owed
to the state, and the amount of the person’s gross retail sales taxable under this
part, and other books of account that may be necessary to determine the amount
of tax under this part, and all those books and records shall be open to
inspection at all reasonable hours to the commissioner, the commissioner’s
delegates, or any person duly authorized by either of them.

(b) All the books and records shall be maintained by the taxpayer for a period
of three (3) years from December 31 of the year in which the taxpayer is
responsible for paying the tax on the transaction or transactions represented by
the record.
67-4-2508. Credit for bad debts arising from sale. [Effective on July 1, 2019.]

A person who has paid the tax imposed by this part on any sale taxable under this part may take credit for any bad debts arising from such sale, in any return filed under this part. Sections 67-6-507(e) and 67-1-1802(d) shall apply to the credit.

67-4-2701. Privilege tax on gross charge for aviation fuel — “Gross charge” defined. [Effective on July 1, 2019.]

There is levied a privilege tax of four and one half percent (4.5%) of the gross charge for the sale, use, consumption, distribution and storage of aviation fuel used in the operation of airplane or aircraft motors. For the purpose of this part, “gross charge” shall include the actual price paid for the aviation fuel without any deductions from the actual price paid, except for federal excise tax.

67-4-2702. Collection — Notice to customer regarding payment of tax — Payment by purchaser — Transactional tax. [Effective on July 1, 2019.]

(a) The taxes levied in this part shall be collected from the dealer as defined in § 67-6-102, and paid at the time and in the manner provided in this part. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether the customer is paying this privilege tax. This indication shall be stated on the ticket, invoice, or other record given to the customer.

(c) The tax levied by this section shall be paid by the purchaser in those cases where the seller of the aviation fuel is not liable to collect the tax.

(d) The tax levied by this part is a transactional tax in lieu of the sales or use tax and shall be considered a sales or use tax for purposes of reciprocity and giving credit for sales or use tax paid.

67-4-2703. Payment of tax. [Effective on July 1, 2019.]

(a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of aviation fuel taxable under this part during the preceding calendar month.

(b) Each dealer shall also remit the amount of tax due with each return required in subsection (a). If the taxes due with the return are not remitted to the commissioner before the due date of the return, the return shall be considered delinquent and penalty and interest shall attach to the taxes due as provided by law.

(c) Each dealer of aviation fuel shall include on the return a statement under penalty of perjury, evidencing the total amount in gallons of aviation fuel sold and the dollar amount collected from the sales, and any other information as may be required by the commissioner on forms prescribed by the department.
67-4-2704. Administration and enforcement — Rules and regulations — Examination of books and records. [Effective on July 1, 2019.]

(a) The commissioner of revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes imposed by this part.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to this part.

67-4-2705. Determination of tax liability — Assessments. [Effective on July 1, 2019.]

(a) When any person fails to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of the failure to file, the commissioner is authorized to determine the tax liability of the person from whatever source of information may be available to the commissioner or the commissioner’s delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of the tax; and any person against whom the assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof, except upon filing a true and accurate return, together with supporting evidence that the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2706. Duty to keep and preserve records. [Effective on July 1, 2019.]

(a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of tax owed to the state, and the amount of the person’s gross charges taxable under this part, and other books of account that may be necessary to determine the amount of the tax under this part, and all those books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by the commissioner.

(b) The books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction or transactions represented by the record.

67-4-2707. Deposits to transportation equity fund. [Effective on July 1, 2019.]

The tax collected under this part shall be deposited to the transportation equity fund.
67-4-2708. Exemption for aviation fuel sold for resale — Proof. [Effective on July 1, 2019.]

The tax imposed by this part shall not apply when the aviation fuel is sold for resale. The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be a sale for resale is in fact a sale for resale.

67-4-2709. Additional exemptions. [Effective on July 1, 2019.]

The exemptions provided for in §§ 67-6-308, 67-6-322, 67-6-325, 67-6-328, and 67-6-384 are applicable to the tax levied under this part. In addition, all sales made to the state or any county or municipality within the state shall be exempt from the tax levied under this part.

67-4-2710. Exemption for products sold to or used by commercial air carriers for international flights. [Effective on July 1, 2019.]

There is exempt from the tax imposed by this chapter fuel and petroleum products sold to or used by a commercial air carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier for a flight destined for or continuing from a location outside the United States.

67-4-2711. Liability of commercial air carrier for tax — “Commercial air carrier” defined. [Effective on July 1, 2019.]

(a) A commercial air carrier may purchase aviation fuel without payment of tax to the dealer by presenting the dealer with a certificate issued pursuant to § 67-6-528, in which case the carrier becomes liable for reporting and payment of the privilege tax pursuant to the terms of this section.

(b) For purposes of this section, “commercial air carrier” means an entity authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property by air in interstate or foreign commerce.

67-4-2712. Taxes collected in another state. [Effective on July 1, 2019.]

(a) The tax imposed by this part shall not apply to any aviation fuel:

(1) Upon which a sales or use tax was previously legally imposed and collected by another state, at a rate equal to or greater than the rate of tax provided for in this part; or

(2) Upon which another state has previously legally imposed and collected a tax substantially similar to the tax imposed by this part, at a rate equal to or greater than the rate of tax provided for in this part.

(b) If the taxes described in subsection (a) are at a rate less than the rate imposed by this part, the tax imposed by this part shall be at the difference between the rate of tax imposed by this part and the rate of the tax described in subsection (a).

(c) Notwithstanding subsections (a) and (b), the tax levied by this part shall apply without reduction for any sales or use tax or tax substantially similar to the tax levied by this part that is paid to another state on the same transaction if that state does not have the first right to tax or has no statutory provisions to
reduce its sales or use tax, or tax substantially similar to the tax levied by this part, by any payment of the tax levied by this part. Each taxpayer seeking a reduction of the tax levied by this part due to payment of a sales or use tax or tax substantially similar to the tax levied by this part to another state on the same transaction shall furnish evidence to the satisfaction of the commissioner that the tax statutes of the other state would allow a reduction of its sales or use taxes or tax substantially similar to the tax levied by this part in like factual situations.

(d) The taxpayer shall bear the burden of maintaining documentary proof that the taxes described in subsection (a) have been paid.

67-4-3201. Part definitions.

As used in this part:

(1) “Implementing agency” means any public transit agency, regional transportation authority created under title 64, chapter 8, or other local government department, agency, or designated entity that is responsible for planning or implementing a transit improvement program;

(2) “Local government” means:

(A) Any county in this state, including any county having a metropolitan or consolidated form of government, having a population in excess of one hundred twelve thousand (112,000), according to the 2010 federal census or any subsequent federal census; or

(B) Any city in this state having a population in excess of one hundred sixty-five thousand (165,000), according to the 2010 federal census or any subsequent federal census;

(3) “Public transit system” means any mass transit system intended for shared passenger transport services to the general public, together with any building, structure, appurtenance, utility, transport support facility, transport vehicles, service vehicles, parking facility, or any other facility, structure, vehicle, or property needed to operate the transportation facility or provide connectivity for the transportation facility to any other non-mass transit system transportation infrastructure, including, but not limited to, interstates, highways, roads, streets, alleys, and sidewalks;

(4) “Surcharge” means a tax, or combination of taxes, levied by a local government pursuant to this part; and

(5) “Transit improvement program” means a program consisting of specified public transit system projects and services.

67-4-3202. Local option transit surcharge.

(a) A local government is authorized to levy a surcharge, for use in accordance with § 67-4-3205, on the same privileges subject to the taxes listed in subdivisions (a)(1)-(6), if the underlying local tax on such privileges is being collected at the time a transit improvement program is adopted in accordance with § 67-4-3206. Any surcharge shall be a separate charge in addition to the local taxes provided in subdivisions (a)(1)-(6). Notwithstanding, and in addition to, any other law authorizing a local government to impose a local privilege tax, and subject to the maximum rates or amounts provided in subdivision (g)(2), any surcharge levied pursuant to this part shall be limited to the following local privilege taxes:

(1) Local option sales and use tax, pursuant to chapter 6, part 7 of this
(b) No surcharge under this part shall become effective unless approved by a majority of the number of registered voters of the local government voting in an election on the question of whether the surcharge shall be levied, pursuant to the procedures in this subsection (b). Upon the adoption of a transit improvement program in accordance with § 67-4-3206, and receipt of a certified copy of the adopted ordinance or resolution regarding the program, the county election commission is directed to call an election to be held in accordance with § 2-3-204 to approve or reject the levy of the surcharge. An election to approve or reject the levy of the surcharge may be considered a general election for purposes of § 2-3-204(c), which shall be conducted as follows:

1. The ballots used in the election shall have printed on them the surcharge and the brief summary of the transit improvement program from the ordinance or resolution adopted pursuant to § 67-4-3206, providing options to vote “FOR” or “AGAINST” the ordinance or resolution levying the surcharge, and the voters shall vote for or against approval of the ordinance or resolution;

2. The votes cast shall be canvassed and the results proclaimed and certified by the county election commission to the local government’s legislative body;

3. The qualifications of voters shall be the same as those required for participation in general elections;

4. All laws applicable to general elections shall apply to the determination of the approval or rejection of the surcharge; and

5. If the majority of those voting in the election vote for the ordinance or resolution levying the surcharge, the ordinance or resolution shall be deemed to be approved on the date that the county election commission makes its official canvass of the election returns.

(c) No surcharge shall be collected until the first day of a month occurring at least sixty (60) days after the date of approval of the levy of the surcharge; provided, however, that such surcharge shall apply only to tax periods beginning on or after October 1, 2017. The local government shall furnish a certified copy of the adopted ordinance or resolution to the department of revenue within ten (10) days of the approval of the levy of the surcharge.

(d) Any surcharge levied pursuant to this part shall remain in effect until the occurrence of a specific date or condition of termination in the ordinance or resolution adopting the surcharge, or until the surcharge is repealed in the same manner as adopted under this part.

(e) If an election held pursuant to this part results in the rejection of the levy of the surcharge, a subsequent election regarding a surcharge authorized by this part may not be held for at least twelve (12) months from the date of the
election.

(f) If a surcharge authorized by this part is ratified by a city that meets the definition of local government in § 67-4-3201 prior to adoption or ratification of a surcharge by the county in which the city or town is located, the effectiveness of the city's surcharge shall be suspended for a period of forty (40) days beyond the date on which it would otherwise be effective. If during this forty-day period, the county legislative body adopts a resolution in accordance with § 67-4-3206, the effectiveness of the surcharge shall be further suspended until the referendum is held in accordance with this section. If the county surcharge is ratified, the city's surcharge shall be null and void. A city that meets the definition of local government in § 67-4-3201 shall not adopt a surcharge pursuant to this part if a county has adopted and is collecting a surcharge pursuant to this part.

(g)(1) The rate of a surcharge for the local taxes provided in subdivisions (a)(1)-(6) shall not exceed the maximum rate or amount established in subdivision (g)(2) for the applicable surcharge. The maximum rate or amount of a surcharge shall be applied to the aggregate of all transit improvement programs adopted by a local government in accordance with § 67-4-3206 and no surcharge may be levied which shall cause the rate or amount of any surcharge to exceed the maximum rate or amount. A local government shall levy any surcharge up to the maximum rate or amount as provided in subdivision (g)(2) without affecting the available taxing authority and rates or amounts of local taxes listed in subdivisions (a)(1)-(6).

(2)(A) No local government may levy a surcharge on the local option sales and use tax under subdivision (a)(1) that separately exceeds the maximum rate established for the applicable underlying local option sales and use tax.

(B) No local government may levy any combination of tourist accommodation taxes or fees pursuant to title 7, chapter 4, hotel occupancy taxes pursuant to part 14 of this chapter or an applicable private act, local tourism development zone business taxes pursuant to the Local Tourism Development Zone Business Tax Act, compiled in part 30 of this chapter, state sales and use taxes pursuant to chapter 6 of this title, local option sales and use taxes pursuant to chapter 6, part 7 of this title, or surcharges on any combination of tourist accommodation taxes or fees, hotel occupancy taxes, and local option sales and use taxes that under subdivisions (a)(1) and (a)(5) exceed a combined rate of twenty percent (20%) on hotels, motels, or other tourist accommodations subject to such taxes and surcharges.

(C) No local government may levy a surcharge on a business tax under subdivision (a)(2), a surcharge on a local rental car tax under subdivision (a)(4), or a surcharge on a residential development tax under subdivision (a)(6) that separately exceeds the rate of twenty percent (20%) of the current applicable rate of the business tax, local rental car tax, or residential development tax.

(D) No local government may levy a combination of a motor vehicle tax and a surcharge on a motor vehicle tax that under subdivision (a)(3) exceeds a combined amount of two hundred dollars ($200) on persons subject to such taxes and surcharges.

(h) Nothing in this part requires revenue from a surcharge levied pursuant to this part to be expended or distributed for school purposes.
67-4-3203. Collection and administration.

(a) Any surcharge shall be levied, collected, and administered in the same manner as the applicable underlying local tax, and shall be subject to the same conditions, limitations, exemptions, credits, returns, and other requirements as are applicable to the underlying local tax.

(b) The taxpayer shall have the remedies applicable to the underlying local tax.

(c) Any penalty and interest applicable to the underlying local tax shall be applicable to the surcharge.

(d) For any surcharge that the department of revenue administers and collects, the department of revenue shall administer and collect the surcharge as follows:

(1) In collecting and administering a surcharge levied under this part, the commissioner of revenue shall have the same powers as the commissioner has in collecting and administering the underlying tax;

(2) The department shall remit the proceeds of the surcharge to the local government levying the surcharge, less an administrative fee of one and one hundred twenty-five thousandths percent (1.125%) to cover its expenses of administering the collection and remittance of the surcharge; and

(3) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedies provided in § 67-1-1438, and chapter 1, part 18 of this title, it being the intention of the general assembly that the law which applies to the recovery of underlying taxes illegally assessed or collected be conformed to apply to the recovery of surcharges illegally assessed or collected under this part.

(e) Any surcharge on the business tax shall be applied to all persons subject to the tax and shall be calculated based on their applicable rates and classifications pursuant to § 67-4-709.

67-4-3204. Local option sales and use tax.

(a) Notwithstanding that a local government may levy a surcharge under this chapter on the local option sales and use tax pursuant to chapter 6, part 7 of this title for use in accordance with § 67-4-3205, and in addition to the exemptions authorized by § 67-4-3203(a), the following items shall be exempt from the surcharge:

(1) Water sold to or used by manufacturers and taxed at the state rate of one percent (1%) as authorized in § 67-6-206;

(2) Sales of tangible personal property to a common carrier for use outside the state;

(3) Video programming services as defined in § 67-6-102;

(4) Telecommunication services;

(5) Specified digital products as defined in § 67-6-102; and

(6) Sales of tangible personal property when obtained from any vending machine or device and taxed at the local rate of two and one quarter percent (2.25%) as authorized in § 67-6-702(h).

(b) Any surcharge on the local option sales and use tax shall apply only to the first one thousand six hundred dollars ($1,600) on the sale or use of any single article of personal property as defined in § 67-6-702(d).

(c) Any surcharge on the local option sales and use tax shall not apply to sales made by dealers with no location in this state who choose to pay local tax
pursuant to § 67-6-702(f) at the rate set forth in that section.

(d) Except as otherwise provided in subsection (a), any surcharge on the local option sales and use tax shall apply equally and uniformly to all sales of tangible personal property, services, and other items subject to the tax, and shall be subject to the same exemptions provided in chapter 6 of this title as are applicable to the tax.

67-4-3205. Use of surcharge revenue.

(a) Revenue from a surcharge must be used for costs associated with the planning, engineering, development, construction, implementation, administration, management, operation, and maintenance of public transit system projects that are part of a transit improvement program.

(b) Revenue from the surcharge may be:

1. Combined with other funding generated by local, state, or federal governments from taxes, fees, or fares, and may be used to match state aid funds and federal grants;

2. Combined with private moneys where allowed by law and used as a public entity’s share of costs associated with a public-private initiative entered into pursuant to Chapter 975 of the Public Acts of 2016;

3. Pledged to the payment of bonds issued for the purposes of financing a transit improvement program in accordance with this part; and

4. Directed or transferred to implementing agencies to carry out a transit improvement program.

(c) If either a transit improvement program or a public transit system project that is part of a transit improvement program becomes unfeasible, impossible, or not financially viable, the revenue from the surcharge for the transit improvement program may be directed to and utilized for a separate transit improvement program or public transit system project that:

1. Has been approved by:

   A. The local government’s legislative body, as required in § 67-4-3206(e)(1); and

   B. A majority of the number of registered voters of the local government voting in an election pursuant to the procedures in § 67-4-3202; and

2. Otherwise meets the requirements of this part.

(d) The proceeds of any bonds issued for the purposes of financing a transit improvement program shall not be used for operations of any public transit system projects or services that are part of the program, and in no event, shall the credit of any local government be given or loaned to or in aid of any person, company, association, or corporation, within the meaning of the Constitution of Tennessee, article II, § 29.

67-4-3206. Adoption of transit improvement programs.

(a) Before a surcharge may be imposed, a transit improvement program shall be developed and adopted in accordance with this section.

(b) A transit improvement program must indicate and describe in reasonable detail the public transit system projects and services to be funded and implemented under the program.

(c) A transit improvement program must state:

1. The type and rate of a surcharge that will provide funding to the program;
(2) When a surcharge will terminate or the date or conditions upon which the surcharge will be terminated or reduced;
(3) Any other sources of funding for the program;
(4) An estimate of the initial and recurring cost of the program;
(5) The implementing agencies responsible for carrying out the program; and
(6) The geographic location of the public transit system projects.

d) Prior to adoption of a transit improvement program in accordance with subsection (e), a local government must:

(1) Solicit public comment regarding the transit improvement program;
(2) Make reasonable efforts to notify or coordinate with other local governments surrounding the local government that is considering adopting the transit improvement program; and
(3) Prepare a plan of financing that demonstrates a proposed transit improvement program's financial feasibility that includes the methodology and assumptions used in the financial forecasts and projections supporting the plan’s analysis. The plan of financing shall include information on the amount of the transit improvement program’s infrastructure to be financed through the issuance of bonds or other debt. The plan of financing’s analysis will be based on forecasts and projections for at least a ten-year period after the planned inception date for the program. For the purposes of this section, “financial feasibility” means the transit improvement program is likely to be viable after taking into account the anticipated costs, risks, and liabilities of the transit improvement program, the anticipated revenue generated by the surcharge and transit improvement program, and the local government’s financial position. A local government shall obtain a determination or opinion in accordance with the attestation standards from an independent certified public accounting firm that the assumptions in the local government’s plan of financing provide a reasonable basis for the local government’s forecast or projection given the hypothetical assumptions supporting its analysis that the proposed transit improvement program is financially feasible. Prior to obtaining the determination or opinion, the local government shall obtain approval from the comptroller of the treasury of the selection of the firm and the procedures to be used by the firm in making the determination or opinion. Upon approval of the firm and the procedures to be used by the firm by the comptroller of the treasury, the local government shall submit to the firm a plan of financing for any of the projects or services to be provided as part of the transit improvement program. Other relevant information may be considered in making the determination or opinion required by this subdivision (d)(3). The local government shall publish the completed financial feasibility determination or opinion in its entirety with the plan of financing on its website as soon as practicable after completion.

(e)(1) A transit improvement program is adopted if it is passed by ordinance or resolution by majority vote of the local government’s legislative body.

(2) A copy of such ordinance or resolution must be provided to the department of revenue prior to the election on the question of whether the surcharge shall be levied.

(f) The ordinance or resolution must contain a brief summary of the transit improvement program for which revenue from the surcharge will be used, written in a clear and coherent manner using words with common everyday meanings, and not exceeding two hundred fifty (250) words in length, and must include the information listed in subsections (b) and (c).
shall be placed on the ballot pursuant to § 67-4-3202(b)(1).

(g) The financing and operations of a transit improvement program shall be accounted for in a manner approved by the comptroller of the treasury and in compliance with generally accepted accounting principles (GAAP). Nothing in this part limits the authority of the comptroller of the treasury to audit the revenues and expenditures of a transit improvement program, the financing or operations of a transit improvement program, and to charge a reasonable fee for its services.


(a)(1) There shall be exempt from property taxation the real and personal property, or any part of the real and personal property, owned by any religious, charitable, scientific, or nonprofit educational institution that is occupied and actually used by the institution or its officers purely and exclusively for carrying out one (1) or more of the exempt purposes for which the institution was created or exists. There shall further be exempt from property taxation the property, or any part of the property, owned by an exempt institution that is occupied and actually used by another exempt institution for one (1) or more of the exempt purposes for which it was created or exists under an arrangement:

(A) In which the owning institution receives no more rent than a reasonably allocated share of the cost of use, excluding the cost of capital improvements, debt service, depreciation, and interest, as determined by the state board of equalization; or

(B) Which is solely between exempt institutions that originated as part of a single exempt institution and that continue to use the property for the same religious, charitable, scientific, or nonprofit educational purposes, whether by charter, contract, or other agreement or arrangement.

(2) In determining the exemption applicable to a post-secondary educational institution, there shall be a presumption that the entire original campus of an institution chartered before 1930 is an historical and integral entity, and is exempt so long as no particular portion of such campus is used for nonexempt purposes.

(3)(A) The property of such institution shall not be exempt, if:

(i) The owner, or any stockholder, officer, member or employee of such institution shall receive or may be lawfully entitled to receive any pecuniary profit from the operations of that property in competition with like property owned by others that is not exempt, except reasonable compensation for services in effecting one (1) or more of such purposes, or as proper beneficiaries of its strictly religious, charitable, scientific or educational purposes; or

(ii) The organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such institution, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one (1) or more of these purposes.

(B) The real property of any such institution not so used exclusively for carrying out thereupon one (1) or more of such purposes, but leased or otherwise used for other purposes, whether the income received therefrom
be used for one (1) or more of such purposes or not, shall not be exempt;
but, if a portion only of any lot or building of any such institution is used
purely and exclusively for carrying out thereupon one (1) or more of such
purposes of such institution, then such lot or building shall be so exempt
only to the extent of the value of the portion so used, and the remaining or
other portion shall be subject to taxation.

(4) No church shall be granted an exemption on more than one (1)
parsonage, and an exempt parsonage may not include within the exemption
more than three (3) acres.

(b)(1) Any owner of real or personal property claiming exemption under this
section or § 67-5-207, § 67-5-213 or § 67-5-219 shall file an application for
the exemption with the state board of equalization on a form prescribed by
the board, and supply such further information as the board may require to
determine whether the property qualifies for exemption. No property shall
be exempted from property taxes under these sections, unless the applica-
tion has been approved in writing by the board. A separate application shall
be filed for each parcel of property for which exemption is claimed. An
application shall be deemed filed on the date it is received by the board or, if
mailed, on the postmark date. The applicant shall provide a copy of the
application with any supporting materials to the assessor of property of the
county in which the property is located. An application for exemption
pursuant to this section or any other section referring to these procedures
shall be treated as an appeal for purposes of § 67-5-1512.

(2) The board shall make an initial determination granting or denying
exemption through its staff designee, who shall send written notice of the
initial determination to the applicant and the assessor of property. Written
notice includes notification by electronic means and notice may be preserved
in digital or electronic format. Either the assessor of property or the
applicant may appeal the initial determination to the board and shall be
entitled to a hearing prior to any final determination of exemption. The
assessor shall retain copies of any approved applications in paper, electronic,
or digital format. Upon approval of exemption, it is not necessary that the
applicant reapply each year, but the exemption shall not be transferable or
assignable and the applicant shall promptly report to the assessor any
change in the use or ownership of the property that might affect its exempt
status. The board may by rule impose a fee for processing applications for
exemption. Such fee shall not exceed one hundred twenty dollars ($120) and
shall be proportionate to the value of the property at issue. The total fees
collected in any fiscal year shall not exceed the cost of processing exemption
applications in that fiscal year.

(3)(A) Any institution claiming an exemption under this section that has
not previously filed an application for and been granted an exemption for
a parcel must file an application for exemption with the state board of
equalization by May 20 of the year for which exemption is sought. If the
application is approved, the exemption will be effective as of January 1 of
the year of application or as of the date the exempt use of such parcel
began, whichever is later. If application is made after May 20 of the year
for which exemption is sought, but prior to the end of the year, the
application may be approved but will be effective for only a portion of the
year determined as follows:

(i) If application is filed within thirty (30) days after the exempt use
of the property began, exemption will be effective as of the date the
exempt use began or May 20, whichever is later; or

(ii) If application is filed more than thirty (30) days after the exempt use began, the exemption will be effective as of the date of application.

(B) If a religious institution acquires property that was duly exempt at the time of transfer from a transferor who had previously been approved for a religious use exemption of the property, or if a religious institution acquires property to replace its own exempt property, then the effective date of exemption shall be three (3) years prior to the date of application, or the date the acquiring institution began to use the property for religious purposes, whichever is later. The purpose of this subdivision (b)(3) is to provide continuity of exempt status for property transferred from one exempt religious institution to another in the specified circumstances. For purposes of this subdivision (b)(3), property transferred by a lender following foreclosure shall be deemed to have been transferred by the foreclosed debtor, whether or not the property was assessed in the name of the lender during the lender’s possession.

(C) In any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, if a nonprofit educational institution which is a medical college acquires one (1) or more parcels of land or portions thereof for the purpose of carrying out one (1) or more of the exempt purposes for which the institution was created or exists, the institution may claim and file an application for exemption under this section or § 67-5-213, and the effective date of such exemption shall be up to three (3) years prior to the date of application, or the date the institution began to use the property for exempt purposes, whichever is later. This subdivision (b)(3)(C) shall apply to properties acquired before May 25, 2017, so that such properties are not subject to taxation under this chapter while owned by the exempt educational institution and used for one (1) or more of the exempt purposes for which the institution was created or exists; provided, however, that nothing in this subdivision (b)(3)(C) requires a county to refund any taxes that were collected prior to May 25, 2017.

(4) All questions of exemption under this section shall be subject to review and final determination by the board; provided, that any determination by the board is subject to judicial review by petition of certiorari to the appropriate chancery court. All other provisions of law notwithstanding, no property shall be entitled to judicial review of its status under this statute, except as provided by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and only after the exhaustion of administrative remedies as provided in this section.

(5) The state board of equalization may revoke any exemption approved under this section, if it determines that the exemption was approved on the basis of fraud, misrepresentation or erroneous information, or that the current owner or use of the property does not qualify for exemption. The executive secretary of the board may initiate proceedings for revocation on the executive secretary’s own motion or upon the written complaint of any person upon a determination of probable cause. Revocation shall not be retroactive, unless the order of revocation incorporates a finding of fraud or misrepresentation on the part of the applicant or failure of the applicant to give notice of a change in the use or ownership of the property as required by
(c) As used in this section, “charitable institution” includes any nonprofit organization or association devoting its efforts and property, or any portion thereof, exclusively to the improvement of human rights and/or conditions in the community.

(d)(1) The property, or any part thereof, owned by any religious, charitable, scientific or educational membership nonprofit organization chartered by the United States congress shall not be denied exemption because administrative, social or recreational activities of such organization are conducted thereon, where the activities are:

(A) Agencies for the advancement and enlargement of the purposes for which the organizations exist;

(B) In furtherance of the general purposes of such organization; or

(C) To promote the interest of its membership in such organizations.

(2) When property is owned by corporations organized for the exclusive purpose of holding title to property for use of any organization that itself qualifies for such exemption from taxation under this subsection (d), only such property of the corporation, or such parts thereof, as would be entitled to an exemption under this subsection (d) if owned directly by such organization shall not be denied exemptions.

(3) The exemption of property or parts thereof under this subsection (d) shall be applicable only to such part of the property on which such organization conducts administrative, social or recreational activities, if it is less than the entire property.

(e)(1) There shall be exempt from property taxation the property of labor organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code, codified in 26 U.S.C. § 501(c)(5), when such property is not used for revenue producing profit, but is used by such organization for charitable or educational meetings; but, if part of the property is used for revenue producing profit, then the part so used shall not be exempt from property taxation; provided, that the real property on which the building is situated shall be exempt from property taxation.

(2) No such organization that discriminates against any person based upon race, sex, religious beliefs or national origin shall be eligible for the property tax exemption authorized by subdivision (e)(1).

(f) There shall be exempt from property taxation the property or any part thereof of nonprofit artificial breeding associations chartered under the Tennessee Nonprofit Corporation Act, compiled in title 48, chapters 51-69.

(g)(1) In the case of property that is owned by any religious, charitable, scientific or educational institution and on which such institution constructs improvements to be occupied and used by such institution or its officers purely and exclusively for carrying out thereupon one (1) or more of the purposes for which the institution was created or exists, the property, to the extent of the value of the improvements constructed thereon for these purposes, shall be considered to be occupied and used by the institution or its officers purely and exclusively for the institution’s purposes from and after, but not before, the commencement of the construction of the improvements and to the extent of such value shall be exempt from taxation; provided, that, if the improvements upon completion are not so occupied and used, then no part of the value of the property shall be exempt from taxation during the construction of the improvements.
(2) If upon completion of the improvements a portion thereof is not so used and occupied, such portion shall not be exempt from taxation during construction.

(3) If the improvements upon completion are not occupied and used by such institution or its officers for a period of ten (10) years, purely and exclusively for carrying out thereupon one (1) or more of the purposes for which such institution was created or exists, the institution shall be liable for the full amount of property taxes that would otherwise have been due and payable during the period of construction, plus penalties and interest as provided in this title.

(4) Construction begun, and having the effect of activating this subsection (g), shall be completed within five (5) years or the effect of this subsection (g) shall be null and void.

(h) There shall be exempt from property taxation the property or any part thereof of fraternal organizations exempted from the payment of federal income taxes by the United States Internal Revenue Code, 26 U.S.C. § 501(c), to the extent that such property is used not for revenue-producing profit, but directly, physically and exclusively for religious, charitable, scientific and educational activities.

(i) There shall be exempt from property taxation the property, or any part thereof, of nonprofit county fair associations.

(j) There shall be exempt from property taxation the property or any portion thereof containing one (1) residential dwelling located in a community park that is open to entry by the general public, if such dwelling is owned by a nonprofit religious, charitable, educational or scientific organization that does not receive income from the resident thereof, if such resident does not occupy the dwelling in lieu of a salary, and if such resident, by such resident's presence, would discourage or prohibit damage or destruction by vandalism of the organization's property.

(k) There shall be exempt from property taxation any property upon which a caretaker's dwelling is located, if:

1. The dwelling is located upon land owned by a nonprofit member organization chartered by the United States congress;
2. The land immediately surrounding the dwelling is used by such organization for nonprofit religious, charitable, educational or scientific purposes; and
3. The caretaker's presence is required for the physical security of the users of the property as well as to discourage or prohibit damage or destruction of the organization's property by vandalism.

(l) The general assembly finds that public radio broadcasting serves a valid educational purpose so long as the broadcaster holds an educational broadcast license issued by the federal communications commission; and, therefore, that property, or any part thereof, owned by a public radio station that is an affiliate member of the public broadcasting network, and that is organized as a nonprofit charitable or educational institution, shall be exempt from property taxation to the extent the property is used in a manner consistent with the license.

(m) The general assembly finds that public television broadcasting serves a valid educational purpose so long as the broadcaster holds a noncommercial educational broadcast license issued by the federal communications commission. Therefore, that property, or any part thereof, owned by a public television
station that is an affiliate member of the public broadcasting network, and that
is organized as a nonprofit charitable or educational institution, shall be
exempt from property taxation to the extent the property is used in a manner
consistent with the license.

(n) There shall be exempt from property taxation the real and personal
property, or any part thereof, that is owned by a religious or charitable
institution and that is occupied and used by such institution for a thrift shop;
provided, that:

(1) The institution is exempt from payment of federal income taxes under
Section 501(c)(3) of the Internal Revenue Code, codified in 26 U.S.C.
§ 501(c)(3);

(2)(A) The thrift shop is operated as a training venue for persons in need
of occupational rehabilitation; or

(B) The thrift shop is operated primarily by volunteers;

(3) The inventory of the thrift shop is obtained by donation to the
institution that owns and operates the shop;

(4) Goods are priced at levels generally ascribed to used property;

(5) Goods are given to persons whose financial situations preclude pay-
ment; and

(6) The net proceeds of the thrift shop are used solely for the charitable
purposes of the institution that owns and operates the shop.

(o) Land not necessary to support exempt structures or site improvements
associated with exempt structures, including land used for recreation, retreats
or sanctuaries, shall not be eligible for exemption beyond a maximum of one
hundred (100) acres per county for each religious, charitable, scientific or
nonprofit educational institution qualified for exemption pursuant to this
section. For purposes of applying this limit, land owned by an exempt
institution shall be aggregated with land owned by related exempt institutions
having common ownership or control. Qualifying land in excess of the limit
shall be classified as forest land upon application submitted pursuant to
§ 67-5-1006, or as open space land upon application submitted pursuant to
§ 67-5-1007, and the effective date of the classification shall be the date the
property might otherwise have qualified for exemption.


For purposes of classification and assessment of property:

(1) “All other tangible personal property” includes all tangible personal
property, including that used in agriculture, except public utility tangible
personal property and commercial and industrial tangible personal
property;

(2) “Commercial and industrial tangible personal property” includes per-
sonal property, such as goods, chattels and other articles of value that are
able of manual or physical possession, and machinery and equipment
that are:

(A) Used essentially and principally for the commercial or industrial
purposes or processes for which they are intended; and

(B) If affixed or attached to real property, can be detached without
material injury to such real property;

(3) “Farm property” includes all real property that is used, or held for use,
in agriculture as defined in §§ 1-3-105 and 43-1-113, including, but not
limited to, growing crops, pastures, orchards, nurseries, plants, trees, timber, raising livestock or poultry, or the production of raw dairy products, and acreage used for recreational purposes by clubs, including golf course playing hole improvements;

(4) “Industrial and commercial property” includes all property of every kind used, directly or indirectly, or held for use, for any commercial, mining, industrial, manufacturing, trade, professional, club whether public or private, nonexempt lodge, business, or similar purpose, whether conducted for profit or not. All real property that is used, or held for use, for dwelling purposes that contains two (2) or more rental units is hereby defined and shall be classified as “industrial and commercial property”;

(5) “Intangible personal property” includes personal property, such as money, any evidence of debt owed to a taxpayer, any evidence of ownership in a corporation or other business organization having multiple owners, and all other forms of property, the value of which is expressed in terms of what the property represents rather than its own intrinsic worth. “Intangible personal property” includes all personal property not defined as “tangible personal property”;

(6) “Modern market telecommunications provider” means:
   (A) An incumbent local exchange telephone company that elects market regulation pursuant to § 65-5-109;
   (B) A telephone cooperative organized pursuant to § 65-29-102; or
   (C) A nongovernmental entity or separate operating division within the entity if the business activity of the entity or division is limited to providing:
      (i) Competitive local exchange telephone services; or
      (ii) Interconnected voice over internet protocol services;

(7) “Movable structure” includes any mobile home or such other movable structure that is constructed as a trailer or semitrailer and designed to either be towed along the highways or to be parked off the highways, and that may be used, temporarily or permanently, as a residence, apartment, office, storehouse, warehouse or for any other commercial or industrial purpose; but does not include self-propelled vehicles, sleeping and camping facilities attached to, or designed to be attached to, or drawn by a pick-up truck or an automobile, and that contains less than three hundred square feet (300 sq. ft.) of enclosed space;

(8) “Personal property” includes every species and character of property that is not classified as real property;

(9) “Public utility property” includes all property of every kind, whether owned or leased, and used, or held for use, directly or indirectly in the operation of a public utility, which includes, but is not necessarily limited to, the following business entities, whether corporate or otherwise:
   (A) Railroad companies;
   (B) Telephone companies other than the following:
      (i) Companies providing cellular telephone service as defined in § 65-4-101(6)(A)(vi);
      (ii) Companies providing radio common carrier service as defined in § 65-30-103;
      (iii) Companies providing long distance telephone service; and
      (iv) Modern market telecommunications providers;
   (C) Freight and private car companies that are defined as any business, other than a railroad company, that owns, uses, furnishes, leases, rents or
operates to, from, through, in or across this state or any part thereof any kind of railroad car, including, but not necessarily limited to, flat, tank, refrigerator, or similar type cars;

(D) Street car companies;

(E) Power companies, whether hydroelectric, steam, atomic, or other kinds for the transmission of power;

(F) Express companies;

(G) Pipeline companies;

(H) Gas companies;

(I) Electric light companies;

(J) Water and/or sewerage companies;

(K) Motor bus and/or truck companies holding a certificate of convenience and necessity or contract hauler’s permit from the department of safety or the federal highway administration and domiciled in this state and/or owning or leasing real or personal property located in this state;

(L) Taxicab, transit and limousine companies;

(M) Commercial air carrier companies holding a certificate of convenience and necessity from the department of transportation, civil aeronautics board, federal aviation administration, or any other federal or state regulatory agency; excepting those companies whose operations are solely chartered operations; and

(N) Water transportation carrier companies which operate boats and barges over the waterways of this state for hire, which are registered for these purposes with the United States army corps of engineers or any other federal or state agency and which are domiciled in this state or own or lease real or personal property located in this state; provided, that the portion of property of these companies used for water carriage that was exempt from regulation by the interstate commerce commission under federal law in effect on November 1, 1995, shall not be considered public utility property for classification and assessment purposes;

(10)(A) “Real property” includes lands, tenements, hereditaments, structures, improvements, movable property assessable under § 67-5-802, or machinery and equipment affixed to realty, except as otherwise provided for in this section, and all rights thereto and interests therein, equitable as well as legal;

(B) Real property includes, but is not limited to, the following:

(i) Surface, underground or elevated railroads, and railroad substructures and superstructures, tracks and the metal thereon, branches, switches and other improvements or structures permitted or authorized to be made in, upon, or under any public or private property;

(ii) Telephone, broadcast, transmission and telegraph poles, supports, conduits, towers and enclosures for electrical conductors upon, above and underground and pipes and conduits used for wire, cables and lines buried underground, except for underground conduits and enclosures for wire, cables, lines and similar facilities owned, leased or used to provide services pursuant to the terms and authority of a franchise license issued by an appropriate franchising authority in accordance with § 7-59-102. This subdivision (10)(B) shall not operate to change the classification of any radio or television broadcast property that was assessed as tangible personal property for the tax year 2003;

(iii) Mains, pipes, pipelines and tanks permitted or authorized to be built, laid or placed in, upon, or under any public or private street or
place for conducting steam, heat, water, oil, electricity or any property, substance or product capable of transportation or conveyance therein or that is protected thereby, excluding propane tanks for residential use and above ground storage tanks that can be moved without disassembly and are not affixed to the land; and

(iv) Bridges, wharves, piers, boat docks, boat houses, marinas and other similar structures that are attached to real property by anchors, cables, wires, ramps, pillars, poles, foundation, or connected with any one (1) utility service, such as electricity, natural gas, water or telephone; provided, that nothing in this subdivision (10)(B) shall be construed to include boats temporarily connected with any utility service, or floating dry-dock equipment or boat lifts;

(11) “Residential property” includes all real property that is used, or held for use, for dwelling purposes and that contains not more than one (1) rental unit. All real property that is used, or held for use, for dwelling purposes, but that contains two (2) or more rental units, is defined and shall be classified as “industrial and commercial property”;

(12) “Revised assessment” means the correction of an error or omission in the assessment roll so long as the trustee or the municipal collector retains control of the tax roll book; and

(13) “Tangible personal property” includes personal property such as goods, chattels, and other articles of value that are capable of manual or physical possession, and certain machinery and equipment, separate and apart from any real property, and the value of which is intrinsic to the article itself.

67-5-502. Place and function of assessment.

(a) The function of assessment shall be to assess:

(1) All property, except such property as shall be assessed by the comptroller of the treasury, to the person or persons owning or claiming to own the same on January 1 for the year for which the assessment is made, if known and, if not, to unknown owners; provided, that any temporary improvement, or movable structures that are assessable under § 67-5-802, regardless of ownership, shall be assessed as real property as an improvement to the land where located;

(2) The property held by executors and administrators in the county, district or ward in which the decedent resided at the time of the death until such have been distributed; but, if the deceased lived in another state, then the property shall be assessed where the personal representative resides; and

(3) Personal property held by trustees and guardians of minors and severely and persistently mentally ill persons to each guardian or trustee in the county, ward or district where such minor, or severely and persistently mentally ill person resides, if a resident of the state; and, if a nonresident, then in the county, ward or civil district in which the guardian or trustee resides; provided, that guardian held property shall be assessed in the county where the guardian having control thereof renders such guardian’s annual settlement.

(b) The property of all street railroad, gas, electric light companies, modern market telecommunications providers, and all public utility companies, includ-
ing their franchises, used within any town, city, or taxing district where the
office of the company is located outside of such incorporated city or town or
taxing district, but with the main property within the city, shall be taxed in the
city, town, or taxing district as if the office was situated within the city limits,
and the property, including franchises of the corporations and joint stock
companies that lie wholly or mainly within any incorporated city, taxing
district, or town, or whose chief business is within any incorporated city, taxing
district, or town, shall be assessed for taxation in such city, taxing district, or
town; provided, that all real property and tangible personal property shall be
taxed in the district where situated; and provided further, that public utility
property of every kind, whether real property, tangible personal property, or
intangible personal property, shall all be assessed for taxes at fifty-five percent
(55%) of its value and that all property of modern market telecommunications
providers shall be assessed at the rate applicable to commercial and industrial
property of the same type.

(c) Leased personal property used by a public utility company or modern
market telecommunications provider shall be assessed to such company or
provider, unless such property is the subject of a lawful agreement between the
lessee and a local government for payments in lieu of taxes. Other leased
personal property shall be classified according to the lessee’s use and assessed
to the lessee, unless such property is the subject of a lawful agreement between
the lessee and a local government for payments in lieu of taxes. Personal
property that is leased to and used by any religious, charitable, scientific, or
nonprofit educational institution purely and exclusively for one (1) or more of
the purposes for which the institution was previously determined to be exempt
under § 67-5-212 shall not be deemed to be used in a business or profession,
and shall not be classified as industrial or commercial property for property tax
purposes.

(d) All mineral interests and all other interests of whatever character, not
defined as products of the soil, in real property, including the interest that the
lessee may have in and to the improvements erected upon land where the fee,
reversion, or remainder therein is exempt to the owner, and which interest or
interests is or are owned separately from the general freehold, shall be
assessed to the owner thereof, separately from the other interests in such real
estate, which other interests shall be assessed to the owner thereof, all of
which shall be assessed as real property.

(e) Notwithstanding contrary provisions of law, the comptroller of the
treasury may establish a pilot program for assessing leased tangible personal
property to the owner/lessor rather than the lessee. Participation in the
program shall be voluntary, at the election of owner/lessors who are selected by
the comptroller of the treasury to participate based on criteria that optimize
savings in the cost of assessment compliance and administration. The comp-
troller of the treasury may impose a fee to defray the cost of administration.
Participants shall be permitted to report leased property centrally in lieu of the
schedules otherwise required under § 67-5-903 or § 67-5-904, and the comp-
troller of the treasury shall be responsible for distributing centrally reported
assessments based on situs. Participants may be permitted to claim the
business tax credit provided in § 67-4-713 for property taxes paid pursuant to
a central assessment, and the credit may be taken at the participant’s option
either on the return due in the jurisdiction of situs or the jurisdiction from
which the lease originated.

(a)(1) Prior to May 20 of each year, the assessor shall note upon the assessor’s records the current classification and assessed valuation of all taxable property within the assessor’s jurisdiction; provided, that, in regard to municipalities, the time requirements of § 67-5-504 shall control.

(2) The assessor shall hold such records open to public inspection, at the assessor’s office, during normal business hours; and shall, furthermore, cause to be published at least once in a newspaper of general circulation within the assessor’s jurisdiction, a notice when and where such records may be inspected, such notice to be published not later than ten (10) calendar days before the local board of equalization begins its annual session. The notice shall be set forth in the publication within distinct and prominent borders, and shall have a width of not less than two (2) regular columns of such newspaper and a depth of at least four inches (4”). The notice shall state the day upon which the county board of equalization will convene, the last day appeals will be accepted, and a warning that failure to appeal the assessment to the county board of equalization may result in the assessment becoming final without further right of appeal.

(3) In addition, at least ten (10) calendar days before the local board of equalization commences its annual session, the assessor or the assessor’s deputy shall notify, or cause to be notified, each taxpayer of any change in the classification or assessed valuation of the taxpayer’s property. Such notification shall be sent by United States mail, addressed to the last known address of the taxpayer, and shall be effective when mailed. The notification shall show the previous year’s assessment and classification and the current year’s assessment and classification.

(4) A notation of the date of any notification of a change in classification or assessed valuation, or a dated copy of such notification, shall be included in the records of the assessor; and such records shall be preserved by the assessor for not less than two (2) years.

(5) For the year in which a reappraisal program is completed and the values so determined are approved by the state division of property assessments to be used as the basis for making assessments in any county, any notice showing the appraised value of property and sent to a property owner by any company, which has been employed for the purpose of conducting such reappraisal program, shall be in lieu of the notice herein required to be sent by an assessor of property to a taxpayer whose classification or assessed valuation has been changed; provided, that the assessor of property uses the appraised value as set forth on the notice from the company as the basis for the assessor’s assessment; and provided further, that the assessor of property does not change the classification of the property from its former classification.

(6) Further, upon a consolidation of the municipal and other assessment offices within any county with the office of the county assessor of property, as provided in § 67-1-513, the county assessor of property shall not be required to notify each taxpayer within such municipality, unless a change has been made by the county assessor of property from the former classification and assessed valuation that existed on the county tax roll for the preceding year; provided, that the assessor of property shall hold the assessor’s records open to public inspection at the assessor’s office during normal business hours and
shall cause to be published at least once, in a newspaper of general
circulation within the assessor’s jurisdiction, a notice where and when such
records may be inspected. Such notice shall be published not later than ten
(10) calendar days before the local board of equalization begins its annual
session.

(b)(1) Should an assessor fail to complete and note upon the assessor’s
records the assessment of a taxpayer’s property prior to May 20, or should an
assessor fail to notify a taxpayer, or the taxpayer’s agent, of any change in
the classification or assessed valuation of the taxpayer’s property, such
taxpayer shall have no legal basis for complaint; provided, that the assess-
ment against the property is completed, and a notice of any new or changed
classification or assessed valuation is sent by United States mail, to the last
known address of the taxpayer, at least ten (10) calendar days before the
local board of equalization ends its annual session.

(2) In the event an assessor shall fail to complete any assessment, or
notify any taxpayer of a change in the classification or assessed valuation of
the taxpayer’s property, at least ten (10) calendar days before the local board
of equalization ends its annual session, such failure shall not affect, in any
way, the validity of such assessment, classification or assessed valuation; but
an aggrieved property owner shall have the right to appeal directly to the
state board of equalization at its next regular session; and no proceedings
shall be undertaken to collect any taxes based upon such assessment, or
penalty added, until thirty (30) calendar days after the board shall have
rendered a final decision on such appeal or complaint. Upon written request
of any party, or upon its own motion, the state board of equalization may
remand any such complaint or appeal to the local board of equalization.

(c) As an alternative to notice by mail as provided in this section, notice may
be sent by email using the email address provided to the assessor by the
taxpayer.

(d) An assessor of property may maintain any records as required under this
part in an electronic format.

67-5-515. Assessment of operating property of municipal or similar
provider of broadband services.

Beginning on January 1, 2023, the operating property of a municipal or
similar provider of broadband services that provides competitive local ex-
change telephone services or interconnected voice over internet protocol
services through a dedicated telecommunications division and that makes in
lieu of tax payments pursuant to title 7, chapter 52, part 4 or 6, or that makes
similar in lieu of tax payments pursuant to a private act, and that is currently
paying such in lieu of taxes based upon a rate of assessment of fifty-five percent
(55%), shall be classified and assessed in the same manner as the operating
property of a modern market telecommunications provider for purposes of
calculating the in lieu of tax payments to be paid with respect to its operating
property used to provide such competitive local exchange telephone services or
interconnected voice over internet protocol services.

67-5-603. Property damage — Improvements to property.

(a)(1) If, after January 1 and before September 1 of any year, a building or
improvement shall be moved, demolished or destroyed, or substantially
damaged by fire, flood, wind or any other disaster, and is not restored and no other improvement is constructed in its place before September 1 of that year, the assessor of property shall make or correct the assessment of such property on the basis of the value of the property after such move, destruction or substantial damage of the improvements, notwithstanding the status of the property as of the assessment date of January 1; provided, that for the year in which such improvement is moved, demolished, destroyed, or so damaged, the assessment of the improvement shall be prorated for the portion of the year prior to the date of such move, destruction or damage. This section shall not apply to the movement of a mobile home or other movable structure as defined in § 67-5-501.

(2) The state, county, or municipal tax collector shall collect taxes on the basis of the revised or corrected assessment as prorated by the assessor.

(3) An improvement shall be deemed substantially damaged when as a consequence thereof it has been rendered unfit for use or occupancy, or when such damage has reduced the value of the improvement by more than fifty percent (50%).

(b)(1) If, after January 1 and before September 1 of any year, an improvement or new building is completed and ready for use or occupancy, or the property has been sold or leased, the assessor of property shall make or correct the assessment of such property, on the basis of the value of the improvement at the time of its completion, notwithstanding the status of the property as of the assessment date of January 1; provided, that for the year in which such improvement or building is completed, the assessment, or increase in assessment, of the improvement shall be prorated for the portion of the year following the date of its completion.

(2) The state, county or municipal tax collector shall collect taxes on the basis of the revised or corrected assessment as prorated by the assessor.

(3) For the purpose of assessment, an improvement or new building shall be deemed completed and ready for use or occupancy when the structural portion of the building or improvement is substantially completed, even though the interior finish or certain appointments may be left to the choice of a prospective buyer or tenant after consummation of a sale or lease of the property.

(4) Any improvement or new building shall be deemed completed and to have a value for assessment purposes when the real property upon which such improvement or new building is located shall have been conveyed to a bona fide purchaser, or when such new building or improvement has been occupied or used or shall be suitable for occupancy or use, whichever shall first occur. In no event shall any improvement or new building be considered incomplete for valuation or assessment purposes for more than one (1) calendar year immediately following the date on which such construction was commenced.

(5) In the event an improvement or new building shall be considered incomplete for assessment purposes on January 1 of any year, the owner of such improvement or new building shall, not later than February 1 of that year, submit to the assessor of property, in writing, the total cost of all materials used in such incompleted structure as of January 1, and the assessor of property shall assess such incomplete structure as real property, based on the fair market value of the materials used therein. Actual cost of all materials shall be prima facie evidence of the value of such incompleted
improvements.

(c) In order to assist assessors of property in locating improvements to property, including new buildings and additions to existing buildings, in counties where building permits are not required, the state director of fire prevention shall each month provide to assessors of property of such counties the names of property owners and location of the property for which electrical inspections have been made. The location of the property shall be given with reference to the assessor’s map and parcel identification number. In addition, in counties that do not require building permits, copies of permits for subsurface sewage disposal systems shall be furnished to the assessor of property of the county where such systems are located by the agency issuing such permits.

(d) [Repealed effective December 31, 2017.] If, on or after September 1, 2016, and before December 31, 2016, a building or improvement was demolished or destroyed, or fifty percent (50%) or more damaged by fire, wind, or any other disaster certified by the federal emergency management agency (FEMA), the annual assessment of an affected building or improvement in a county included in the FEMA declaration shall be prorated for tax year 2016 in the manner provided in subsection (a), for the actual time the building or improvement is destroyed and not replaced, or the actual time the building or improvement is fifty percent (50%) or more damaged, regardless of whether the building or improvement is restored or replaced by December 31, 2016; provided, that the total time the building or improvement is destroyed or damaged and not replaced or restored, exceeds thirty (30) days. The owner must apply for this relief to the assessor by June 30, 2017, using a form approved by the director of the state division of property assessments. If the tax computed for tax year 2016 has been paid prior to the proration by the assessor, the county or municipality shall refund to the owner that portion of the tax paid that resulted from the revised assessment. This subsection (d) shall be effective retroactively to January 1, 2016, but shall not take effect as to any particular county or municipality unless approved by two-thirds (2/3) vote of its governing body. This subsection (d) is deleted on December 31, 2017.

67-5-606. Proration of commercial and industrial property damaged by disaster.

(a) If, after January 1 and before September 1 of any year, commercial and industrial tangible personal property is destroyed, demolished or substantially damaged by fire, flood, wind or any disaster certified by the federal emergency management agency (FEMA), and is not restored and no commercial and industrial tangible personal property is operated in its place before September 1 of that year, the assessor of property shall prorate the assessment of the commercial and industrial tangible personal property for the portion of the year prior to the date of such destruction, demolition or substantial damage.

(b) The state, county, or municipal tax collector shall collect taxes on the basis of the revised or corrected assessment as prorated by the assessor.

(c) [Repealed effective December 31, 2017.] If, on or after September 1, 2016, and before December 31, 2016, commercial and industrial tangible personal property was demolished or destroyed, or fifty percent (50%) or more damaged by fire, wind, or any other disaster certified by the federal emergency management agency (FEMA), the annual assessment of the qualifying per-
personal property in a FEMA certified county shall be prorated for tax year 2016 in the manner provided in subsection (a), for the actual time the qualifying personal property is not replaced or restored, or the actual time the qualifying personal property is fifty percent (50%) or more damaged, regardless of whether the qualifying personal property is restored or replaced by December 31, 2016; provided, that the total time the qualifying personal property is not replaced or restored exceeds thirty (30) days. The owner must apply for this relief to the assessor by June 30, 2017, using a form approved by the director of the state division of property assessments. If the tax computed for tax year 2016 has been paid prior to the proration by the assessor, the county or municipality shall refund to the owner that portion of the tax paid that resulted from the revised assessment. The owner must provide the assessor a listing of the destroyed, demolished, or fifty percent (50%) or more damaged personal property for which the proration is sought. This subsection (c) shall be effective retroactively to January 1, 2016, but shall not take effect as to any particular county or municipality unless approved by two-thirds (\( \frac{2}{3} \)) vote of its governing body. This subsection (c) is deleted on December 31, 2017.


(a)(1) There shall be paid from the general funds of the state to certain low-income taxpayers sixty-five (65) years of age or older the amount necessary to pay or reimburse such taxpayers for all or part of the local property taxes paid for a given year on that property that the taxpayer owned and used as the taxpayer’s residence as provided in this part.

(2) For tax year 2007 and thereafter, the taxpayer’s annual income from all sources shall not exceed twenty-four thousand dollars ($24,000), or such other amount as set forth in the general appropriations act. This annual income limit shall be adjusted each tax year to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars ($10.00). The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant’s spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person’s legal residence at any time during the year for which tax relief is claimed. Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations shall not be considered income to an owner who relocates to a nursing home.

(3)(A) Such reimbursement shall be paid on the first twenty-seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property.

(B) Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid under subdivision (a)(3)(A) shall be increased annually to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars ($100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision (a)(3)(B) and post the
information in a readily identifiable location on the comptroller’s website.

The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%).

(b)(1) In determining the amount of relief to a taxpayer, the effective assessed value on the first twenty-seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of full market value shall be multiplied by a tax rate that has been adjusted to reflect the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(2) The effective assessed value shall be determined by multiplying the full market value of the property up to twenty-seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), by twenty-five percent (25%).

(3) The full market value of the property shall be determined by adjusting the appraised value of the property as shown on the records of the assessor of property by a factor that reflects the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(c) Taxpayers who become sixty-five (65) years of age on or before December 31 of the year for which application is made for property tax relief and are otherwise eligible shall be qualified as elderly low-income homeowners.

67-5-703. Disabled homeowners.

(a)(1) There shall be paid from the general funds of the state to certain taxpayers who are totally and permanently disabled, as may be determined by rules and regulations of the state board of equalization, the amount necessary to pay or reimburse such taxpayers for all or part of the local property taxes paid for a given year on that property that the taxpayer owned and used as the taxpayer’s residence as provided in this section.

(2) For tax year 2007 and thereafter, the taxpayer’s annual income from all sources shall not exceed twenty-four thousand dollars ($24,000), or such other amount as set in the general appropriations act. The annual income limit shall be adjusted each tax year to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars ($10.00). The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant’s spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person’s legal residence at any time during the year for which tax relief is claimed. Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations shall not be considered income to an owner who relocates to a nursing home.

(3)(A) Such reimbursement shall be paid on the first twenty seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property.

(B) Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid shall be increased annually
to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars ($100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision (a)(3)(B) and post the information in a readily identifiable location on the comptroller’s website. The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%).

(b)(1) In determining the amount of relief to a taxpayer, the effective assessed value on the first twenty seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of full market value shall be multiplied by a tax rate that has been adjusted to reflect the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(2) The effective assessed value shall be determined by multiplying the full market value of the property up to twenty seven thousand dollars ($27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), by twenty-five percent (25%).

(3) The full market value of the property shall be determined by adjusting the appraised value of the property as shown on the records of the assessor of property by a factor that reflects the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(c) Taxpayers who become totally and permanently disabled on or before December 31 of the year for which application is made for property tax relief and are otherwise eligible shall be qualified as disabled homeowners.

(d) Any information concerning the disability status of a disabled homeowner shall be confidential and shall not be subject to inspection under Tennessee public records law, compiled in title 10, chapter 7, but shall be available to local or state officials who administer, enforce, or audit the tax relief program or requirements under this section.

67-5-704. Disabled veteran’s residence.

(a)(1) There shall be paid from the general funds of the state to certain disabled veterans the amount necessary to pay or reimburse such taxpayers for all or part of the local property taxes paid for a given tax year on that property that the disabled veteran owned and used as the disabled veteran’s residence as provided in this section.

(2) [Deleted by 2016 amendment.]

(3) Such reimbursement shall be paid on the first one hundred seventy-five thousand dollars ($175,000) of the full market value of such property.

(4) In determining the amount of relief to a taxpayer, the effective assessed value on the first one hundred seventy-five thousand dollars ($175,000) of full market value shall be multiplied by a tax rate that has been adjusted to reflect the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(5) The effective assessed value shall be determined by multiplying the full market value of the property up to one hundred seventy-five thousand
dollars ($175,000) by twenty-five percent (25%).

(6) The full market value of the property shall be determined by adjusting the appraised value of the property as shown on the records of the assessor of property by a factor that reflects the relationship between appraised value and market value in that jurisdiction, as determined by the state board of equalization.

(b) For the purposes of this section, a “disabled veteran” means a person who has served in the armed forces of the United States, and who has:

(1) Acquired in connection with such service a disability from paraplegia or permanent paralysis of both legs and lower part of the body resulting from traumatic injury or disease to the spinal cord or brain, or from legal blindness, or from loss or loss of use of two (2) or more limbs from any service-connected cause;

(2) Acquired one hundred percent (100%) permanent total disability, as determined by the United States veterans' administration, and such disability resulting from having served as a prisoner of war; or

(3) Acquired service-connected permanent and total disability or disabilities, as determined by the United States department of veterans' affairs.

c) Under no conditions shall property tax relief extend to any person who was dishonorably discharged from any of the armed services.

d) The determination of the United States veterans' administration concerning the disability status of a veteran shall be conclusive for purposes of this section.

e) Property tax relief shall also be extended to the surviving spouse of a disabled veteran who, at the time of the disabled veteran's death, was eligible for disabled veterans' property tax relief. If a subsequent amendment to the law concerning eligibility as a disabled veteran would have made the deceased veteran eligible for disabled veterans' property tax relief, then property tax relief shall also be extended to the surviving spouse. A surviving spouse shall continue to qualify for disabled veterans' property tax relief as long as the surviving spouse:

(1) Does not remarry;

(2) Solely or jointly owns the property for which tax relief is claimed; and

(3) Uses the property for which tax relief is claimed exclusively as a home.

(f) Property tax relief shall also be extended to the surviving spouse of a veteran whose death results from a service-connected, combat-related cause, as determined by the United States veterans' administration; provided, that:

(1) The surviving spouse does not remarry; and

(2) The property for which tax relief is claimed is owned by and used exclusively by the surviving spouse as a home.

g) Property tax relief shall also be extended to the surviving spouse of a soldier whose death results from being deployed, away from any home base of training and in support of combat or peace operations; provided, that the surviving spouse:

(1) Does not remarry;

(2) Solely or jointly owns the property for which tax relief is claimed; and

(3) Uses the property for which tax relief is claimed exclusively as a home.

(h) The refund provided by this section shall be in lieu of any payment under § 67-5-702 or § 67-5-703.

(i) Any information concerning the disability status of a disabled veteran or the death of a soldier shall be confidential and shall not be subject to inspection
under Tennessee public records law, compiled in title 10, chapter 7, but shall be available to local or state officials who administer, enforce, or audit the tax relief program or requirements under this section.

(j) [Deleted by 2016 amendment.]


(a) This section shall be known and may be cited as the “Property Tax Freeze Act.”

(b) The purpose of this section is to provide for uniform and orderly administration of the property tax freeze program for eligible taxpayers in those jurisdictions adopting it. This section is not intended to displace other forms of property tax relief available at the time of its passage except as expressly provided in this section.

(c) As used in this section, unless the context otherwise requires:

(1) “Base tax” means the property tax due on the principal residence of a qualifying taxpayer at the time the jurisdiction levying the tax adopts a resolution or ordinance approving the property tax freeze under this section. If the taxpayer did not qualify or did not own an eligible residence when the freeze was adopted, “base tax” means the maximum property tax due on the taxpayer’s eligible residence for the year in which the taxpayer became eligible on the basis of an approved application. If a taxpayer reapply after acquiring a new residence or after a period of ineligibility, the base tax shall be recalculated for the year of reapplication and reestablishment of eligibility;

(2) “Collecting official” means the county trustee or, in the case of taxes due a municipality, the county trustee or other official responsible for collection of property taxes;

(3) “Improvement” means any change to a dwelling or dwelling lot that would properly warrant a change by the assessor in the assessed value of the property for the year or portion of the year in which the improvement is made; and

(4) “Principal residence” means the dwelling owned by the taxpayer and eligible as the taxpayer’s legal residence for voting purposes. Program rules shall establish the maximum size limits for land that may qualify as a taxpayer’s principal residence. The rules shall take into consideration lot size requirements under applicable zoning, as well as property actually used to support residential structures; provided, however, that the size limit shall not exceed five (5) acres. The tax freeze granted by this section shall only apply to the residence and no more than the maximum limit for land established by the rules.

(d) The legislative body of any county or municipality may by resolution or ordinance adopt the property tax freeze program provided in this section. The county or municipality may thereafter terminate the freeze program by resolution or ordinance; provided, however, that the resolution or ordinance terminating the program shall not have the effect of terminating the program until the following tax year.

(e)(1) Taxpayers seeking the property tax freeze shall apply annually to the collecting official by the deadline established in program rules, and applicants must qualify on the basis of age, income and ownership of eligible property. The collecting official shall determine whether requirements for
eligibility have been met, and the collecting official’s determination shall be final, subject to audit and recovery of taxes, including interest at the rates otherwise provided for delinquent taxes under § 67-5-2010, if the applicant is later determined to have not been eligible. Any taxpayer who knowingly provides false information concerning the taxpayer’s income or other information relative to eligibility for the program, commits a Class A misdemeanor.

(2) If the collecting official approves the application, property taxes due on the applicant’s principal residence shall be the lesser of:

(A) The actual tax due; or

(B) The base tax; provided, that the base tax shall be adjusted to reflect any percentage increase in the value of the property determined by the assessor to be attributed to improvements made or discovered after the time the base tax was established. The base tax shall be recalculated in any year in which the actual tax due is less than the previously established base tax for the property, and the recalculated base tax shall apply until further recalculated pursuant to this part.

(f)(1) To qualify for the property tax freeze, the applicant shall be sixty-five (65) years of age by the end of the year in which the application is filed. The applicant shall further own and use the property as the applicant’s principal residence for which the freeze is sought in the year of application or reapplication and through the deadline date for application or reapplication.

(2) In addition to the qualifications stated in subdivision (f)(1), the applicant’s income, combined with the income of any other owners of the property, the income of applicant’s spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person’s legal residence at any time during the year, may not exceed the limit stated in subdivision (f)(3). Income for purposes of qualification means income from all sources as defined by program rules.

(3) The income limit for the property tax freeze program shall be the greater of the weighted average of the median household income for age groups sixty-five (65) years of age to seventy-four (74) years of age and seventy-five (75) years of age or over who resided within the county as determined in the most recent federal decennial census, or the applicable state tax relief income limit established under § 67-5-702. This limit shall be adjusted by the comptroller of the treasury to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars ($10.00). The adjusted weighted average median household income level for each county shall be published annually by the comptroller of the treasury.

(g)(1) The comptroller of the treasury is authorized to perform income verification or other related services or assistance at the request of a county or municipality, if the county or municipality agrees to pay fees sufficient to reimburse the actual costs to the comptroller of the treasury in providing such services or assistance, unless or to the extent not appropriated by the general assembly.

(2) Financial records filed for purposes of income verification shall be confidential and shall not be subject to inspection under the Tennessee public records law, compiled in title 10, chapter 7, but shall be available to local or state officials who administer, enforce, or audit the tax freeze program or requirements imposed under this section.

(h) The property tax freeze program shall conform to any uniform defini-
67-5-801. Classification and rate of assessment.

(a) For the purposes of taxation, all real property, except vacant or unused property or property held for use, shall be classified according to use and assessed as provided in this section:

1. **Public Utility Property.** Public utility property shall be assessed at fifty-five percent (55%) of its value;
2. **Industrial and Commercial Property.** Industrial and commercial property shall be assessed at forty percent (40%) of its value;
3. **Residential Property.** Residential property shall be assessed at twenty-five percent (25%) of its value; and
4. **Farm Property.** Farm property shall be assessed at twenty-five percent (25%) of its value.

(b) Where a parcel of real property is used for more than one (1) purpose, which would result in different subclassifications and different assessment percentages, then it shall be apportioned among the subclasses according to guidelines established by rules and regulations of the state board of equalization.

(c)(1) All real property that is vacant, or unused, or held for use, shall be classified according to its immediate most suitable economic use, which shall be determined after consideration of:

(A) Immediate prior use, if any;
(B) Location;
(C) Zoning classification; provided, that vacant subdivision lots in incorporated cities, towns, or urbanized areas shall be classified as zoned, unless upon consideration of all factors, it is determined that such zoning does not reflect the immediate most suitable economic use of the property;
(D) Other legal restrictions on use;
(E) Availability of water, electricity, gas, sewers, street lighting, and public services;
(F) Size;
(G) Access to public thoroughfares; and
(H) Any other factors relevant to a determination of the immediate most suitable economic use of the property.

(2)(A) If, after consideration of all such factors, any such real property does not fall within any of the definitions and classifications in this section, such property shall be classified and assessed as farm or residential property.
(B) When a mobile home attached to real property as described in § 67-5-802 is used as a residence, the assessor of property may presume the classification is residential.


As used in §§ 11-14-201, 11-15-107, 11-15-108, and this part, unless the context otherwise requires:

(A) “Agricultural land” means land that meets the minimum size
requirements specified in subdivision (1)(B) and that either:
(i) Constitutes a farm unit engaged in the production or growing of agricultural products; or
(ii) Has been farmed by the owner or the owner’s parent or spouse for at least twenty-five (25) years and is used as the residence of the owner and not used for any purpose inconsistent with an agricultural use.

(B) To be eligible as agricultural land, property must meet minimum size requirements as follows: it must consist either of a single tract of at least fifteen (15) acres, including woodlands and wastelands, or two (2) noncontiguous tracts within the same county, including woodlands and wastelands, one (1) of which is at least fifteen (15) acres and the other being at least ten (10) acres and together constituting a farm unit;

(2) “Commissioner” means the commissioner of agriculture or the commissioner’s designee;

(3) “Forest land” means land constituting a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest;

(4) “Gross agricultural income” means total income, exclusive of adjustments or deductions, derived from the production or growing of crops, plants, animals, aquaculture products, nursery, or floral products, including income from the rental of property for such purposes and income from federal set aside and related agricultural management programs;

(5) “Local government advisory committee,” “Tennessee local government advisory committee,” or “Tennessee local government planning advisory committee” means the local government planning advisory committee created by § 4-3-727;

(6) “Open space easement” means a perpetual right in land of less than fee simple that:
(A) Obligates the grantor and the grantor’s heirs and assigns to certain restrictions constituted to maintain and enhance the existing open or natural character of the land;
(B) Is restricted to the area defined in the easement deed; and
(C) Grants no right of physical access to the public, except as provided for in the easement;

(7) “Open space land” means any area of land other than agricultural and forest land, of not less than three (3) acres, characterized principally by open or natural condition, and whose preservation would tend to provide the public with one (1) or more of the benefits enumerated in § 67-5-1002, and that is not currently in agricultural land or forest land use. “Open space land” includes greenbelt lands or lands primarily devoted to recreational use;

(8) “Owner” means the person holding title to the land;

(9) “Person” means any individual, partnership, corporation, organization, association, or other legal entity;

(10) “Planning commission” means a commission created under § 13-3-101 or § 13-4-101;

(11) “Present use value” means the value of land based on its current use as either agricultural, forest, or open space land and assuming that there is no possibility of the land being used for another purpose;

(12) “Rollback taxes” means the amount of back tax differential payable
under § 67-5-1008; and
(13) “State forester” means the director of the division of forestry.

67-5-1006. Classification of forest land.

(a)(1) Any owner of land may apply for its classification as forest land by filing a written application with the assessor of property. The application must be filed by March 1. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as forest land the year before under different ownership is disqualified if the new owner does not timely apply. The assessor shall send a notice of disqualification to these owners, but shall accept a late application if filed within thirty (30) days of the notice of disqualification and accompanied by a late application fee of fifty dollars ($50.00).

(2) The assessor shall determine whether such land is forest land, and, if such a determination is made, the assessor shall classify and include it as such on the county tax roll.

(b)(1) In determining whether any land is forest land, the assessor of property shall take into account, among other things, the acreage of such land, the amount and type of timber on the land, the actual and potential growth rate of the timber, and the management practices being applied to the land and to the timber on it.

(2) The assessor of property may request the advice of the state forester in determining whether any land should be classified as forest land, and the state forester shall make such advice available.

(c) An application for classification of land as forest land shall be made upon a form prescribed by the state board of equalization, in consultation with the state forester, and shall include a description of the land, a general description of the uses to which it is being put, aerial photographs, if available, and such other information as the assessor of property or state forester may require to aid the assessor of property in determining whether the land qualifies for designation as forest land.

(d) Any person aggrieved by the denial of an application for the classification of land as forest land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization.

(e) [Deleted by 2017 amendment.]

67-5-1301. Assessment by comptroller of the treasury.

(a) The comptroller of the treasury is authorized and directed to assess for taxation, for state, county, and municipal purposes, all of the properties of every description, tangible and intangible, within the state, owned by and all personal property used and/or leased by the following named persons herein-after referred to as companies, namely:

(1) Railroad companies;

(2) Telephone, radio common carrier, cellular or wireless telecommunications and telecommunications tower companies;

(3) Freight and private car companies, hereby defined as any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including, but not necessarily limited to, flat, tank,
refrigerator or similar type car;
(4) Streetcar companies;
(5) Power companies, whether hydroelectric, steam, atomic, or other kinds for the transmission of power;
(6) Express companies;
(7) Pipeline companies;
(8) Gas companies;
(9) Electric light companies;
(10) Water and/or sewerage companies;
(11) Motor bus and/or truck companies, excluding towing companies, operating commercial motor vehicles exclusively authorized for hire holding United States department of transportation registrations issued by the state of Tennessee through the performance and registration information systems management (PRISM) or the federal motor carrier safety administration (FMCSA) and domiciled in this state and/or owning or leasing real or personal property, including those owner operators who operate under such motor bus and/or truck company’s motor carrier authority, located in this state;
(12) Commercial air carrier companies holding a certificate of convenience and necessity from the department of transportation, civil aeronautics board, federal aviation administration or any other federal or state regulatory agency excepting those companies whose operations are solely chartered operations;
(13) Water transportation carrier companies which operate boats and barges over the waterways of this state for hire, which are registered with the United States army corps of engineers or any other federal or state agency and/or domiciled in this state and/or owning or leasing real or personal property located in this state; and
(14) Modern market telecommunications providers.
(b) The comptroller of the treasury shall assess all of such property annually as of the same date as other properties are assessed by law; provided, that this part shall not apply to corporations organized under the laws of Tennessee whose principal business is the manufacture of products of the soil of Tennessee and who for the transportation alone of such products furnish their own cars.
(c) Provisions generally applicable to post-certification revision of local assessments shall also apply to public utility property, including, without limitation, back assessment or reassessment under chapter 1, part 10 of this title, correction of assessment errors under § 67-5-509, proration of assessments under § 67-5-603, and relief from forced assessments and amendment of taxpayer filed schedules under § 67-5-903. Provisions for confidentiality of taxpayer information under § 67-5-402 shall likewise be applicable to information provided by public utility taxpayers. For purposes of applying these provisions to public utility property, the comptroller of the treasury shall act as assessing authority, and the actions of the comptroller of the treasury shall be subject to review directly by the state board of equalization.

67-5-1302. Basis of value and level of assessment.

(a)(1) The comptroller of the treasury shall, except as otherwise provided in this part, assess all operating property, real and personal, tangible and
intangible, at fifty-five percent (55%) of its value. Such operating property which is used predominantly to provide cellular telephone service, radio common carrier service, or long distance telephone service, or which is used by a modern market telecommunications provider, shall be assessed at the rate applicable to commercial and industrial property of the same type. Property of water transportation carrier companies, or the portion thereof, which is used for water carriage which was exempt from regulation by the interstate commerce commission under federal law in effect on November 1, 1995, shall be assessed at the rate applicable to commercial and industrial property of the same type.

(2) The value shall be determined by the unit rule of appraisal where applicable.

(3) “Unit” means all operating property, tangible and intangible, owned and used and/or leased by the company as determined by the comptroller of the treasury.

(4) “Unit rule of appraisal” means the appraisal of the property as a whole without geographical or functional division of the whole.

(b)(1) The assessments of public utility property or property of modern market telecommunications providers, as set by the comptroller of the treasury in accordance with subsection (a), shall be adjusted, where necessary, on the basis of appropriate ratios, as are determined by the board of equalization for purposes of equalizing the values of such property to the prevailing level of value of property in each jurisdiction; provided, that no equalization factor for purposes of this section may exceed a factor of one (1.000).

(2) In filing the assessments made by the comptroller of the treasury with the board of equalization as required in § 67-5-1327, the comptroller of the treasury shall set out the assessments as determined by the comptroller of the treasury in accordance with the constitutional level of assessments.

(3) The comptroller of the treasury shall also furnish the board of equalization with the equalized assessments as soon as determined.

(c)(1) The comptroller of the treasury shall assess all nonoperating property at its proper level according to the use and class of property into which it may fall.

(2) Nonoperating property shall be appraised annually and valued as other locally assessed property.

(3) “Nonoperating property” means that property not used in the operations of the company as determined by the comptroller of the treasury.

(d)(1) The comptroller of the treasury shall recognize specific valuation for construction-in-process (CIP) tangible personal property in a manner consistent with that provided for locally assessed property under § 67-5-903(g)(1).

(2) The state board of equalization is directed to prepare and adopt rules and regulations for the administration and taxation of CIP pursuant to this section and § 67-5-903, and communicate such rules and regulations to taxpayers to ensure accurate and timely compliance by taxpayers. No back assessments of CIP, as the term is used in § 67-5-903(g), shall occur prior to January 1, 1994. If back assessments have occurred involving CIP, those assessments shall be voided and all taxes paid shall be refunded to those taxpayers who have an action or claim pending before an assessing authority or court on the CIP issue.
67-5-1329. Certification of valuation to comptroller of the treasury.

(a) On or before the third Monday in October, the state board of equalization shall certify to the comptroller of the treasury the valuation fixed by it upon each property assessed under this part. The action of the board in fixing the valuation upon such property shall be conclusive and final, and the valuation so fixed shall be assessed against such property and the taxes due thereunder be paid. If the board fails to certify assessments to the comptroller of the treasury on or before the third Monday in October, the validity of the certification thus delayed shall be unaffected, but the taxpayer shall be afforded a minimum of thirty (30) days from the date the comptroller of the treasury distributes the assessments to local collecting officials, in which to pay taxes without delinquency penalty and interest.

(b) If any railroad, public utility, or modern market telecommunications provider has been or is hereafter aggrieved at the assessment so fixed and certified by the board, such taxpayer shall be required to pay the taxes due and owing the state, counties, and municipalities, upon the full value of the assessment, under protest. Upon termination of any proceedings that may be instituted in any of the courts of this state or in any of the courts of the United States by such taxpayer to review such assessment, the state, counties and municipalities, and any school district, road district, or other taxing district to which such taxes have been paid, shall refund in cash and with interest, such part of the taxes so paid to it as may be adjudged to be excessive or illegal by any final decree or order entered in any such proceeding, or in default of such refund, such taxpayer is authorized to take credit for the amount of such illegal or excessive tax, with interest, against any tax thereafter becoming due from and payable by such taxpayer, to the state, or any county, municipality, road district, school district, or any other taxing district authorized by law to levy taxes.

(c)(1) If the state board of equalization has not completed its review of the assessment certified by the comptroller of the treasury within the time provided herein due to exceptions filed by the property owner with the board, the property owner shall be required to pay at least the undisputed portion of the property taxes, based upon the assessment certified by the comptroller of the treasury to the board, tentatively equalized according to the county appraisal ratios approved by the board pursuant to §§ 67-5-1302(b) and 67-5-1509(a), pending final disposition of the exceptions by the board. The partial payment provided herein shall be made within thirty (30) days of written demand therefor by the affected tax jurisdiction, and the board may dismiss the exceptions of any property owner who fails or refuses to make the payment as provided. The property owner may, in addition, pay the disputed portion of such taxes if the taxing authority to whom such taxes will be due agrees to accept the payment. Upon final disposition of the exceptions and certification of the final assessment to the comptroller of the treasury by the board, any overpayment of taxes shall be refunded to the property owner with interest, and any remainder of taxes due but unpaid shall be payable and collectable as otherwise provided by law. Interest shall be due upon unpaid or overpaid taxes under appeal in the same manner provided in § 67-5-1512, and the statutory interest otherwise accruing on delinquent taxes under § 67-5-2010 shall not accrue until the delinquency date or thirty (30) days after the final assessment is certified by the board, whichever is
later. At the option of the jurisdiction, refund of overpaid taxes with any interest due may be made by lump sum payment or by crediting such payment against future taxes until paid in full. Payments made by the property owner pursuant to this subsection (c) shall not be construed to prejudice the property owner’s appeal or right to a refund of payments determined not to be due, nor shall such payments be considered a voluntary payment. For purposes of this section, authority to bill or make written demand for payment of taxes is vested in the tax collecting official of the jurisdiction, and authority to act otherwise on behalf of the jurisdiction in electing options provided herein is vested in the chief executive officer of the jurisdiction, unless the jurisdiction votes by a majority of its chief legislative body to designate some other official as the person electing options.

(2) This subsection (c) applies to assessments for the 1990 and later tax years.

67-5-1411. Board’s action final — Notice.

(a) When the county board of equalization shall have determined the matters before it, such action shall be final except insofar as the same may be revised or changed by the state board of equalization.

(b) The county board of equalization shall give notice of its final decision and the procedure of appeal to the state board of equalization to each property owner heard, and the notice shall include the following:

(1) The taxpayer’s right to electronically file an appeal to the state board of equalization, including a link to the online appeal form;

(2) The current address of the state board of equalization as indicated on its website;

(3) All relevant statutory deadlines; and

(4) Any other information required by the state board of equalization.


(a) The state board of equalization is hereby authorized to appoint members of the staff of the division of property assessments or such other persons as it may employ, to serve in the capacity of hearing examiners to conduct preliminary hearings and to make investigations for the board or the assessment appeals commission regarding complaints and appeals from assessments and classifications, or regarding any other matter for which the board has responsibility by law. As used in this part, “hearing examiner” includes an administrative judge serving by appointment of the state board of equalization or an administrative judge serving on behalf of the board under appointment by the secretary of state.

(b) The hearing examiners shall prepare proposed findings of fact and conclusions and recommend the same to the board or the assessment appeals commission, if such has been created by the state board of equalization under § 67-5-1502.

(c) Upon the evidence presented before the hearing examiner in a preliminary hearing or upon facts gained in the hearing examiner’s investigation of any matter, the hearing examiner shall prepare proposed findings of fact and conclusions for the state board or the assessment appeals commission, as the case may be, and shall notify each property owner who may be affected by the hearing examiner’s recommendation.

(d) Notwithstanding any contrary provision of law, and unless any party to
the appeal objects in writing, the administrative judge or hearing examiner may render a proposed decision which is limited to words and/or figures reflecting conclusions as to the proper classification or valuation of the subject property.

(e) The hearing examiner shall receive and consider all admissible evidence, as defined in § 4-5-313, presented in a hearing and shall conduct the hearing in an informal manner. All hearings conducted on behalf of, or before the state board of equalization, shall be conducted in a manner that gives deference to the position of neither the taxpayer nor the assessor, but treats both parties in an objective manner. Nothing in this subsection (e) shall be construed as affecting the burden of proof in property tax appeals or other contested cases as otherwise provided by law.

67-5-1506. Action on hearing examiner’s report.

(a) In the absence of either an exception to the recommendation of the hearing examiner by either the property owner or the property owner’s agent, the county assessor of property or the taxing jurisdiction, the state board of equalization or the assessment appeals commission, if such has been created by the state board of equalization pursuant to § 67-5-1502, may adopt the recommendation of its hearing examiner as its final decision without the necessity of a hearing before the board or commission, as the case may be.

(b) If an exception to the recommendation of the hearing examiner is taken by either the property owner or the property owner’s agent, the county assessor of property or the taxing jurisdiction, or if the state board of equalization or the assessment appeals commission does not adopt the recommendation of the hearing examiner, a hearing shall be scheduled before the state board of equalization or the assessment appeals commission, as the case may be, before final action is taken. The review hearing shall be confined to the record except that additional proof may be taken in cases involving alleged irregularities in procedure that are not shown in the record.

(c) The state board of equalization or the assessment appeals commission may affirm the decision of the hearing examiner or remand the case for further proceedings. The state board of equalization or assessment appeals commission may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

1. In violation of constitutional or statutory provisions;
2. Made upon unlawful procedure;
3. Arbitrary and capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
4. Unsupported by evidence that is both substantial and material in light of the entire record;
   (A) In determining the substantiality of evidence, the state board of equalization or the assessment appeals commission shall take into account whatever in the record fairly detracts from its weight, but shall not substitute its judgment for that of the hearing examiner as to the weight of the evidence on questions of fact.

(a)(1) Reappraisal shall be accomplished in each county by a continuous six-year cycle comprised of an on-site review or photo of each parcel of real property over a five-year period, or, upon approval of the state board of equalization, by a continuous four-year cycle comprised of an on-site review or photo of each parcel of real property over a three-year period, followed by revaluation of all such property in the year following completion of the review period. Alternatively, if approved by the assessor and adopted by a majority vote of the county legislative body, the reappraisal program may be completed by a continuous five-year cycle comprised of an on-site review or photo of each parcel of real property over a four-year period followed by revaluation of all such property in the year following completion of the review period. The board may consider a plan submitted by an assessor which would have the effect of maintaining real property values at full value as defined by law on a schedule at least as frequent as outlined in this section. In counties which have adopted a four-year or five-year reappraisal cycle, there shall be no updating or indexing of values as there is in counties with a six-year cycle.

(2) In the third year of a six-year reappraisal cycle, there shall be an updating of all real property values if the overall level of appraisal for the jurisdiction is less than ninety percent (90%) of fair market value. If the overall level of appraisal for the jurisdiction is greater than or equal to ninety percent (90%) of fair market value, any subclass of property not having a level of appraisal within ten percent (10%) of the overall level of appraisal for the jurisdiction shall be updated to the overall level of appraisal. Further, any group of property within a subclass not having a level of appraisal within ten percent (10%) of the level of appraisal for that subclass shall be updated to the level of appraisal for that subclass. If land market values of farm property in the county are not updated, land use values for land classified as agricultural, forest and open space pursuant to chapter 5, part 10 of this title will not be updated. When values are updated, the factors or appraisal table changes used to effect the update shall be as determined by the state board of equalization.

(3) The board may approve a reappraisal plan specifying a schedule for on-site review or photo that is different than the standard schedule provided in subdivision (a)(1), but is no longer than five (5) years, whether the frequency of revaluation is four (4), five (5), or six (6) years. The board shall consider a plan submitted by an assessor which would have the effect of maintaining real property values at full value as defined by law on a schedule at least as frequent as outlined in this subsection (a), and if the board finds the plan would achieve this effect, the plan shall be implemented in lieu of indexing. During the review cycle between revaluations, new improvements discovered by on-site review or photo or otherwise shall be valued on the same basis as similar improvements were valued during the last revaluation or otherwise as necessary to achieve equalization of such values, subject to application of periodic value indexes established by the board.

(4) The assessor of property shall maintain a program of real property sales verification in accordance with procedures and rules established by the
state board of equalization. The assessor of property shall maintain documentation of the reason for rejection of any sale rejected by the assessor for use in analyzing appraisals.

(5) Photo review of parcels as part of reappraisal is permitted only in compliance with rules adopted by the state board of equalization.

(b) Any city lying in more than one (1) county shall be reappraised under a separate plan of reappraisal on a cycle determined by the board. The reappraisal shall be accomplished under contract with the state division of property assessments unless the city has established an assessment office separate from the county in which it lies.

(c)(1)(A) Subject to funding, the state shall pay a per-parcel grant to local governments to assist in the cost of reappraisal. The grant shall be determined by the division of property assessments and approved by the board. Such funds shall be expended solely for the purpose for which the grant was made.

(B) The state grant for any county in a four-year or five-year reappraisal program shall be limited to the amount, as determined by the division of property assessments, which would have been paid to the county had it remained on a six-year reappraisal program.

(2) In the absence of any agreement between the county and the cities thereof imposing a property tax, local costs of reappraisal of properties within a city shall be paid one half (½) by the county and one half (½) by the city. Any city paying one half (½) of local costs of reappraisal pursuant to this section shall pay those costs directly to the county government with jurisdiction over the property being reappraised, and shall pay those costs during the fiscal year in which the reappraisal is finalized.

(3) The assessor of property shall submit such plans and reports for reappraisal as the board shall require. The board, with the assistance of the division of property assessments, has the power to approve, modify or disapprove any proposed plan submitted by the assessor of property, including the power to specify or approve any proposed computer assisted appraisal system pursuant to minimum standards which the board shall adopt in considering a proposed system. All work is subject to the supervision and approval of the director of property assessments. The division shall supervise and direct all reappraisals and revaluation programs, to the cost of which the state of Tennessee contributes.

(4) Where the on-site review is undertaken by the county assessor of property and the county assessor's staff or a professional firm is employed to carry out this work, the division shall monitor the on-site review conducted by the county or the professional firm.

(d)(1) The assessor of property of each county shall prepare a plan for carrying out the requirements of this section and §§ 67-5-1602 — 67-5-1604, in the assessor's taxing jurisdiction, such plan to be submitted to the county mayor and the county legislative body for review in such form, manner and time as shall be determined by the board.

(2) At such time as shall be determined by the board, the assessor shall submit the plan and any pertinent resolution of the county legislative body stating its approval or disapproval to the board for the board's approval or other action.

(3) Prior to the execution of any contract for reappraisal, the county legislative body shall make appropriate arrangements to finance such
contract.

(e) Whenever the classification or assessed value of property is changed as a result of reappraisal, the property owner shall be entitled to notice of such change as otherwise provided by law at least ten (10) calendar days before the local board of equalization commences its annual session and, in addition, shall be given the opportunity to appear at an informal hearing on a day or days scheduled for such hearings. Written notice of any action taken as a result of such hearings shall be sent at least ten (10) days prior to the county board adjournment.

(f) Upon a finding by the division that the assessor of property or the county is unable or unwilling to comply with the requirements under this part, including submission of any necessary plan of compliance required by the board, the director of the division shall report such finding to the board. The board shall notify the assessor of property and the county mayor of the nature of the noncompliance and shall indicate the action required to correct such noncompliance. Failure on the part of the assessor or the county to comply within forty-five (45) days of such notification shall result in the withholding of any or all of the state grant for reappraisal scheduled to be received by the county according to this part until such deficiency is corrected. If satisfactory action is not taken by the assessor or the county to correct the noncompliance within forty-five (45) days from the date that funds are withheld, the board shall direct the division, and the division shall thereupon be authorized to take such steps as are necessary to ensure compliance with the requirements of this part, and the county found in noncompliance shall reimburse the state for all costs incurred by the state pursuant to this action. If such costs are not reimbursed to the state within ninety (90) days of the date of an invoice for such costs, the state may recover its costs through the deduction of such costs from any state-shared taxes as identified in § 4-31-105, otherwise due the county.

(g) The initial schedule of review and revaluation under this section shall be as determined by the board. The board may specify a four-, five- or six-year cycle for the initial scheduling of review and revaluation under this section; provided, that approval of the county legislative body shall be required to move a mid-cycle updating of values from an existing reappraisal plan, and any revised plan longer than five (5) years shall include a mid-cycle updating of values pursuant to subsection (a).

(h)(1) There shall also be an updating of the localized and nonoperating real property of public utilities and modern market telecommunications providers in each county, and such must be accomplished in the same year as other locally assessed properties.

(2) All assessing and updating of operating properties of public utility companies and modern market telecommunications providers must be done by the comptroller of the treasury in accordance with part 13 of this chapter.

(3) All expenses for assessing and updating of operating properties of public utilities and modern market telecommunications providers must be paid by the comptroller of the treasury.

(i) As part of any reappraisal program conducted pursuant to this part, the assessor of property of each county shall identify all cemeteries having historic value as determined by the county historian and the cemetery advisory committee. Every cemetery having one (1) or more tombstones shall be indicated on the tax maps by an appropriate symbol prescribed by the state
board of equalization. Any cemetery which is not less than one fourth (¼) of an acre shall be identified as a separate parcel and contain the appropriate symbol.

67-5-1606. Annual overall ratio of appraisal — Ratios for classifications — Public utility properties and operating properties of modern market telecommunications providers.

(a) Based upon the appraisal ratio studies and other pertinent information, the state board of equalization shall annually determine the overall ratio of appraisal for property in each county of the state.

(b) In addition, the board may also determine ratios for the respective classifications of property for each county.

(c) The state board of equalization shall each year certify to the comptroller of the treasury appraisal levels, as are determined by the board for each county, to be used by the commission for purposes of computing the assessments of public utility properties and operating properties of modern market telecommunications providers.

67-5-2003. Collection by distraint and sale of personalty — Actions at law or garnishment.

(a) All delinquent personal property taxes, including but not limited to, public utility personal property taxes, may be immediately collected by the county trustee or collector, with the assistance of the delinquent tax attorney selected pursuant to § 67-5-2404 or § 67-5-2001, if such delinquent tax attorney's assistance is requested by the trustee or collector. The tax books in the hands of the trustee or collector and the delinquent lists furnished to deputy trustees or the collector's deputies, or the sheriff or constables in any county where the taxpayer or any property liable for the taxes may be found, or the delinquent tax attorney, shall have the force and effect of a judgment and execution from a court of record, and shall be ample authority for the officers or delinquent tax attorney having such taxes for collection to distraint and sell a sufficient amount of the personal property to satisfy the delinquent taxes, interest, penalties, costs and attorneys' fees. However, leased personal property assessed to a lessee shall not be distrained and sold pursuant to this section.

(b) These delinquent personal property taxes may be immediately collected by distraint (distress warrant) and sale of any personal property liable therefor, by suit at law against the taxpayer, and/or by garnishment.

(c) Prior to distraint (seizure) of any personal property, the trustee, deputy trustee or delinquent tax attorney shall give not less than ten (10) days' written notice of the intended distraint (seizure) by either:

(1) Delivering such notice in person;

(2) Leaving such notice at the dwelling place or usual place of business of the taxpayer; or

(3) By mailing such notice to the taxpayer’s last known address.

(d) Ten (10) days’ notice of the time and place of any sale of personalty shall be given by advertisement posted in three (3) public places in the county, one (1) of which shall be at the courthouse door. In addition, at least ten (10) days’ written notice of the sale shall be given to the taxpayer by any of the methods outlined in subsection (c).

(e) The officers shall in all cases have the personal property present when
sold and shall be allowed to retain in addition to the taxes, interest, penalties, costs, and attorney's fees, all commissions, costs and necessary expenses of removing and keeping the property distrained (expenses of seizure, preservation and storage of the property).

(f) Any delinquent tax attorney assisting the trustee shall be allowed attorney's fees, computed as are attorney's fees for collection of real property taxes in § 67-5-2410.

(g)(1) The trustee or collector may turn over the delinquent list thirty (30) days after such taxes become delinquent to the delinquent tax attorney, selected pursuant to § 67-5-2404 or § 67-5-2001, to file suit to collect delinquent personal property taxes, as part of any pending suit to collect real property taxes, as part of a separate mass lawsuit pursuant to the procedures set forth in this chapter, or as a separate lawsuit. Such can be done without having first issued a distress warrant.

(2) In the event the trustee or collector turns over the delinquent list prior to the mailing of the notice pursuant to § 67-5-2402, the trustee or collector shall be required to forward written notice by first class mail to the last known property owner at least ten (10) days before the delinquent list is turned over to the delinquent tax attorney.

(3) If the procedure in this subsection (g) is used, the trustee or collector is also authorized, as with real property tax records, to turn over records to the clerk of court.

(4) A judgment of personal liability for unpaid personal property taxes may be enforced as any other judgment, through garnishment, execution, or otherwise, and may also be recorded as a lien in one (1) or more offices of registers of deeds. Any judgment recorded pursuant to this subdivision (g)(4) shall be subject to the same requirements and attributes of judgment liens, including durability, priority, and renewal, and shall thereafter no longer be subject to the statute of limitation established by this chapter for unpaid property taxes. However, the rates of penalty and interest shall continue as established by this chapter, and upon recording of such judgment, the tax entity shall retain the alternative of enforcing its tax lien against the assessed personal property according to the priority and procedures set forth in this chapter.

(5) Following entry of a personal judgment for delinquent personal property taxes, a tax entity may enter into a written agreement for the payment of such judgment in installments, pursuant to § 26-2-218, on such terms as the tax entity may deem appropriate; provided, that such agreement must provide for payment of all taxes, interest, penalties, fees, and costs in full, including any interest and penalties that accrue during the term of the installment payments.

(6) Any tax entity may file suit to collect any other taxes it is authorized by law to collect thirty (30) days after such taxes become delinquent, as part of any pending suit to collect property taxes, or as a separate mass lawsuit pursuant to the procedures set forth in this chapter.

(h) If any individual, partnership, joint venture, corporation or other legal entity has personal property, tangible or intangible, assessable by the county assessor or other authority, that is sold pursuant to title 47, chapter 9, the party possessing the security interest shall withhold and pay from the proceeds of the sale an amount sufficient to satisfy the personal property taxes assessed under § 67-5-2101 and subject to § 67-5-1805. A secured party
selling the property who fails to withhold and pay such amount shall be held to be personally liable for such amount to the trustee or other collecting official to which these personal property taxes are due, and any action to enforce this subsection (h) must commence against the secured party as a named defendant within four (4) years of the assessment date. Any amount paid by or collected from a secured party pursuant to this subsection (h) shall reduce by that same amount the balance due by the taxpayer to the trustee or other collecting official who has been paid, and such amount shall also become a new obligation of payment by the delinquent taxpayer to the secured party, regardless of contractual limitations to the contrary. The application of § 67-5-1805 to a secured party, and the mechanisms described in this subsection (h), shall be construed as remedial legislation designed to clarify and bring uniformity to existing law regarding the procedure of the apportionment and collection of taxes pursuant to this subsection (h).

(i) Delinquent public utility taxes and taxes owed by modern market telecommunications providers shall not be immediately collected under this section if the local assessment includes any real property. The trustee or collector shall confirm with the comptroller of the treasury whether such taxpayer’s local assessment includes any real property.

67-5-2010. Interest — Delinquent taxes.

(a)(1) To the amount of tax due and payable, interest of one and one-half percent (1.5%) shall be added on March 1, following the tax due date and on the first day of each succeeding month, except as otherwise provided in regard to municipal taxes. Any county having a population in excess of seven hundred thousand (700,000), according to the 1980 federal census or any subsequent federal census establishing tax due dates other than the first Monday in October in each year, in accordance with § 67-1-701(a), shall have the authority to establish the date that interest shall begin to accrue as the date of delinquency in lieu of March 1.

(2) The rate of interest as provided in this section may be reduced to an amount of not less than twelve percent (12%) per annum in the aggregate, upon approval by a two-thirds (2/3) vote of the appropriate local governing body that levied such taxes, in any county having a population of not less than twenty-four thousand six hundred (24,600) nor more than twenty-four thousand seven hundred (24,700), according to the 1980 federal census or any subsequent federal census.

(b) In all instances in which current municipal taxes are collected by the county trustee, the following provisions and rules for the collection of delinquent taxes that may be due to the municipalities and none other shall prevail and obtain, anything in this chapter to the contrary notwithstanding:

(1) The taxes levied and assessed by such municipalities shall become due and delinquent on the date as now provided by existing laws; and

(2) If such municipal taxes are not paid on or before the date fixed for the delinquencies thereof, to the amount of tax due and payable, interest of one and one-half percent (1.5%) shall be added on March 1, following the tax due date and on the first day of each succeeding month.

67-5-2012. Election to sell tax receivables.

(a) As used in this section, unless the context otherwise requires:
(1) “Tax collector” means, in the case a taxing agency that is a county or for which a county acts as its tax collector, the county trustee; and, in the case of a taxing agency that is a governmental entity that, under existing laws, collects its own taxes, assessments, or other charges secured by real property, the officer of the taxing agency responsible for collecting the taxes or charges;

(2) “Tax receivable” means the right to receive revenue from a tax, assessment, or other charge secured by a lien on real property that has become delinquent in whole or in part, including all penalties and interest on the taxes, assessments, or other charges accrued pursuant to law; and

(3) “Taxing agency” means:

(A) Any county having a population of not less than three hundred eighty thousand (380,000), according to the 2000 federal census or any subsequent federal census; or

(B) Any city, town, taxing district, municipal corporation, political subdivision or any other state or local governmental entity that is authorized to assess taxes on real property that is wholly or partially within a county described in subdivision (a)(3)(A).

(b) Any taxing agency, by resolution of its governing body, may elect to sell its tax receivables to public or private parties. In the case of a taxing agency that is a county or for which a county acts as its tax collector, prior to the governing body electing to sell its tax receivables, the county trustee must certify to the governing body the trustee’s consent to administer the program; provided, however, that upon a two-thirds vote of the legislative body of the taxing agency, this certification shall not be necessary. All interest and penalties imposed by law shall continue to accrue on the unpaid original amount of the tax in the same manner as if the tax receivables had not been sold. Sales of tax receivables may be by individual parcel or in bulk. The taxing agency may establish such criteria for eligible purchasers of tax receivables and may make such sales pursuant to negotiated sale for such prices as the taxing agency determines to be in the best interest of the taxing agency.

(c) A taxing agency may enter into purchase and sale agreements for the sale of tax receivables, which purchase and sale agreements may, consistent with this section, contain such terms, covenants, representations and warranties as, in the judgment of the taxing agency, shall be necessary or desirable. The agreement may require the taxing agency to repurchase a tax receivable, or to substitute another tax receivable of equivalent value, for prices and under conditions specified in the agreement. In the case of a taxing agency for which the applicable county trustee acts as tax collector, upon the execution of a purchase and sale agreement for the sale of tax receivables by the appropriate officer of the taxing agency, a taxing agency may enter into an agreement with the county trustee to act as the taxing agency’s agent in connection with the administration of the purchase and sale agreements and of the related tax receivables.

(d) The order of priority of the application of collections of tax receivables with respect to a particular property shall not be changed by reason of the sale of all or a portion of the tax receivables. All amounts collected on account of the tax receivables shall be promptly paid by the taxing agency to the holder of the tax receivable; provided, however, that the taxing agency shall have the right to retain all amounts that are charged and collected as trustee’s fees, attorney’s fees and costs of collection or that are otherwise collected in excess
of the amount due on the tax receivables sold.

(e) Unless provided otherwise in the purchase and sale agreement with respect to tax receivables sold:

(1) The amount bid in a tax sale on behalf of the governmental entities for which the taxes are owing shall include the amount of all tax receivables sold, including the costs incident to the collection thereof;

(2) In the event that the property is acquired by a governmental entity in a tax sale and is not redeemed by the end of the redemption period, then the governmental entity shall promptly offer the property for sale to private purchasers by appropriate means and shall make diligent efforts to sell the property at its reasonable market value, unless the governmental entity pays to the purchasers of the tax receivables the full amount of the tax receivables then due and unpaid;

(3) After a tax sale to a governmental entity, interest pursuant to § 67-5-2010(a)(1) shall continue to accrue on any tax receivables sold until paid in full; however, under no circumstances shall the cost of redemption be greater than if the receivable had not been sold; and

(4) If a governmental entity chooses to discharge, reduce, delay or otherwise compromise the payment of any tax receivables that have been sold, then the discharge, reduction, delay or compromise shall not be effective unless the government entity first pays to the purchaser of the tax receivables the amount of the tax receivable payments that have been discharged, reduced, delayed or otherwise compromised.

(f) Tax receivables and the penalties and interest accrued on the tax receivables shall be exempt from taxation by any governmental entity. The real property affected by any tax receivable shall not be exempt from taxation by reason of this section.

(g) It shall be the duty of the tax collector and all other state, county and municipal officers to continue to enforce the collection of tax receivables that have been sold pursuant to this section, in the same manner as if the tax receivables had not been sold. Nothing in this subsection (g) shall be construed to require of the tax collector or its officers, employees, agents or attorneys a standard of performance of their statutory or contractual duties in the collection of a tax receivable that is different from the standard of performance otherwise required of those persons.


(a) With respect to a de minimus property tax totaling less than five dollars ($5.00) as calculated for a duly assessed parcel of real property, if authorized by a private act, resolution, or ordinance levying the tax, the county trustee or other property tax collecting official may:

(1) Decline to bill the tax;
(2) Decline to refer the tax for further collection; or
(3) Abate any penalty or interest otherwise due for late payment of the tax.

(b) The tax collecting official shall maintain a list of de minimus taxes by parcel and by year, and the tax may be collected when a tax related to the same parcel is tendered for a later year; provided, that such collection is not barred by any applicable statute of limitations.
67-5-2415. Notice to taxpayer of suit.

(a) The court shall have jurisdiction to award personal judgment against an owner upon the claim for the debt upon determining that proper process has been served upon such owner. The court shall have jurisdiction to award a judgment enforcing the lien by a sale of the parcel upon determining that any the following actions have occurred as to each owner:

1. That proper process has been served upon an owner;
2. That the owner has actual notice of the proceedings by mail or otherwise; or
3. That constructive notice by publication pursuant to §§ 21-1-203 and 21-1-204, except as modified in this section, utilizing a description of the parcel in accord with § 67-5-2502(a)(1), has been given to unborn, unfound and unknown owners and that the plaintiff has made or will make a diligent effort prior to the confirmation of the sale of the parcel to give actual notice of the proceedings to persons owning an interest in the parcel, as identified by the searches described in § 67-5-2502(c)(2).

(b) Notice shall also be sufficient if received by an owner in time to afford the owner a reasonable period to prevent the loss of owner’s interest in the parcel. Such a loss shall be deemed to occur upon the expiration or termination of the redemption period established by part 27 of this chapter.

(c) Notice of the pendency of the proceedings as to a parcel constitutes notice of the pending sale of the parcel and vice versa.

(d) If process is to be served upon a defendant, the defendant does not have to receive a copy of the complaint or exhibits. The plaintiff may in lieu thereof furnish to the defendant a notice identifying the proceedings sufficiently for the defendant to determine the parcel which is subject to the delinquent taxes for which the defendant is being sued.

(e) A defendant may file a pleading alleging specific facts establishing any of the following defenses:

1. That the parcel is not subject to sale for the taxes;
2. That the taxes have been paid; or
3. That there has been substantial noncompliance with mandatory statutory provisions relating to the proceedings.

(f) Process may be served either by an authorized process server or forwarded by certified or registered mail, return receipt requested, or by any alternative delivery service as authorized by Section 7502 of the Internal Revenue Code (26 U.S.C. § 7502).

(g) The return of the receipt signed by the defendant, spouse, or other person deemed appropriate to receive summons or notice as provided for in the Rules of Civil Procedure, or its return marked “refused”, “unclaimed”, or other similar notation, as evidenced by appropriate notation of such fact by the postal authorities, and filed as a part of the record by the clerk shall be evidence of actual notice and shall be grounds for a default judgment. Process and notices delivered by registered or certified mail or by an alternative delivery service, with a return receipt, to an interested party’s registered agent at the agent’s address or to the address of the interested party, each as shown on the corporate records of a state secretary of state or other officer responsible for maintaining such records, shall be sufficient to bind the interested party as to notices and service of process.

(h) Prior to confirming the sale of a parcel, the court shall determine that a
diligent effort has been made to give actual notice of the proceedings to all interested persons, as identified by the searches described in § 67-5-2502(c)(2).

67-5-2418. Judgment and sale as to part of defendants — Appeal.

(a) Orders may be entered, notices may be filed, including notices adding parties and consolidating cases pursuant to § 67-5-2405(b)(2), and judgments may be taken against any one (1) or more defendants included in the action, without affecting the rights of the other parties to the action.

(b) Any one (1) or more defendants shall have the right to appeal, and such appeal shall not affect the standing of the cause as to other parties to the proceedings.


(a)(1) The court shall order a sale of the land for cash, certified funds, cashier’s check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.

(2) At all sales, the clerk of the court, acting for a tax entity or entities prosecuting the suit, shall bid the debt ascertained to be due for taxes, interest, penalties, and the costs and fees incident to the collection thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks or financial liabilities associated with the property are such that it is not in the best interests of the tax entity for a minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.

(3) Up to ten percent (10%) of the sale proceeds shall be applied first to payment of any unpaid balance of compensation due the prosecuting attorney. Second, the proceeds of the sale shall be applied to the costs of the suits. Third, the remainder shall be applied to the state first, county second, and municipality third, the amount due each to be ascertained by a decree of the court.

(4) This subsection (a) does not apply to counties with a metropolitan form of government or to counties having the following populations according to the 1970 federal census or any subsequent federal census:

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(b)(1) The court shall order a sale of the land for cash, certified funds, cashier’s check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.

(2) At all sales, the clerk of the court, acting for a tax entity or entities prosecuting the suit, shall bid the debt ascertained to be due for taxes,
interest, penalties, and the costs and fees incident to the collection thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks are such that it is not in the best interests of the tax entity for a minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.

(3) The proceeds from such sale shall be applied first to the payment of the ten percent (10%) penalty allowed as compensation for prosecuting the suits, second to the costs, and third the remainder shall be applied to the state first, county second, and the municipality third, the amount due each to be ascertained by a decree of the court.

(4) This subsection (b) applies only to counties with a metropolitan form of government and to counties having the following populations according to the 1970 federal census or any subsequent federal census:

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(c)(1) Within five (5) business days after the conclusion of the sale, and prior to confirmation of the sale by the court, the clerk of the court shall immediately file in the case a report of sale or other notice reflecting the results of the tax sale.

(2) The clerk of the court shall, concurrently with the filing, file the report or notice with the office of the register of deeds of the county in which the property is located. The report or notice shall set forth all results from the sale, or a separate report or notice may be created for each property sold.

(3) The report or notice shall include, at a minimum, the identification of the property and defendants contained in the notice of sale as required by § 67-5-2502, the name of the successful bidder, and the total successful price bid for each parcel together with the instrument number of the last conveyance of record.

(4) The report or notice shall be for notice purposes only and shall not be evidence of transfer of title.

(5) Failure to timely record the report or notice shall not provide grounds to set the sale aside.

(6) The document shall be exempt from recording fees pursuant to § 8-21-1001, and shall be indexed by the register under the name of the last owner of record.


(a)(1) In the event of a sale under a decree of the court, the property shall be advertised in one (1) sale notice, which notice shall set out the names of the owners of the different tracts or parcels of land and describe the property
and set out the amount of judgment against each defendant. The description of the property shall include a concise description, that means a reference to a deed book and page that contains a complete legal description of the property or the official property number as provided by § 67-5-806, and may also include a common description of the property, which may include street name and number, map and parcel number, number of acres, or any other description which might help identify the property as it is commonly known. The purpose of the common description is to help identify the property that is described in the concise description. Any error or defect in the common description shall not in any way void any sale of the property; provided, that the concise description makes accurate reference to the last conveyance of the property by correct reference to a deed book and page or the official property number as provided by § 67-5-806.

(2) The advertisement may be by publication in a newspaper as required by subdivision (a)(1), or by printed handbills as the courts may decree.

(3) Notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, except as modified in this chapter or as they may be inconsistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter, and may be forwarded to the address of an owner of the property that is on record in the office of the assessor of property. If there is any remainder after the proceeds of the sale have been distributed pursuant to § 67-5-2501, the party receiving notice pursuant to this subdivision (a)(3) shall also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder.

(4) A person, who is either expressly or impliedly authorized by another person to receive mail on behalf of the other person, is authorized to sign a receipt on behalf of the other person accepting registered or certified mail or correspondence delivered by an alternative delivery service, containing either a summons, complaint, or summary of the proceeding or a notice that has been or is to be filed in a tax proceeding. In every tax proceeding, the burden of proving by clear and convincing evidence that a person who signed such a receipt for a different person and was, in fact, at that time expressly prohibited in writing from accepting mail for the second person, shall be upon the person challenging the sufficiency of the service or notice.

(5)(A) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to the owner.

(B) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to all assignees of the owner if evidence of the assignment has not been recorded in the office of the register of deeds in the county where the parcel is located.

(C) This subdivision (a)(5) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(6) The clerk or special master conducting the sale may, on suggestion of the delinquent tax attorney, withdraw any parcel from the sale.

(b) It is the responsibility of the property owner to register the property owner’s name and address with the assessor of property of the county in which the land lies.
(c)(1) For the purposes of this chapter, unless the context requires otherwise:

(A) “Diligent effort to give actual notice of the proceedings” means a reasonable effort to give notice which is reasonably calculated, under all the circumstances and conditions, to apprise interested persons of the pendency of the proceedings in time to afford them an opportunity to prevent the loss of their interest in the parcel. Such effort shall be such as one desirous of actually informing the persons might reasonably adopt to accomplish it. Such effort does not, however, require that an interested person receive actual notice. Nor does it require the plaintiff to search records or sources of information in addition to that information available in the specific offices listed in subdivision (c)(2);

(B) “Interested person”, “person owning an interest in a parcel” and “owner” means a person, including any governmental entity, that owns an interest in a parcel and includes a person, including any governmental entity, that holds a lien against a parcel or is the assignee of a holder of such a lien. “Interested person” also includes a person or entity named as nominee or agent of the owner of the obligation that is secured by the deed or a deed of trust and that is identifiable from information provided in the deed or a deed of trust, which shall include a mailing address or post office box of the nominee or agent. However, a person named as a trustee under a deed of trust, contract lien or security instrument, is not included in such definition unless the person has a separate interest in the parcel;

(C) “Parcel” means a tract or item of real or personal property which is the subject of a judicial proceeding to obtain a personal judgment for the taxes owing or to enforce the lien securing the payment of delinquent property taxes by a sale of the tract or item; and

(D) “Proceeding” and “proceedings” means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of the first lien securing such taxes. The court shall have jurisdiction to determine all issues arising in the proceedings including issues arising before and after the confirmation of the sale of a parcel, including redemption, disposition of excess proceeds and all issues arising pursuant to § 67-5-2507.

(2) The delinquent tax attorney shall make a reasonable search of the public records in the offices of the assessor of property, trustee, the register of deeds and the local office where wills are recorded, seeking to identify and locate all persons owning an interest in a parcel. The court shall set a reasonable attorneys fee for the services required by this subsection (c) which shall become an additional expense of the proceedings for the purposes of § 67-5-2410(d) and shall be secured by the first lien in favor of the tax entity as costs accruing on the taxes pursuant to § 67-5-2101(a).

(3) The delinquent tax attorney shall make a diligent effort to give actual notice of the proceedings to all interested persons, as identified by the searches described in subdivision (c)(2).

(d) A tax sale notice, which shall be the same or substantially the same as the advertised notice, may be recorded in the register of deeds’ office for the county in which the property is located upon the setting of the tax sale date. The recording cost shall be divided between the parcels of land listed in the tax sale notice and added as an additional court cost to each such parcel of land. This tax sale notice shall be recorded for informational purposes only and no
release shall be required.

(e)(1) Any owner of a surface interest in property overlying a mineral interest may record a declaration of the owner’s interest in such land with the register of deeds in the county where the mineral interest is located. Declaration forms shall be available at the register’s office and shall include the name of the owner of mineral interest beneath the surface. Declaration forms received by the register’s office shall be recorded by the register in the dormant mineral interest record. Declaration forms shall be indexed under the names of the mineral interest owners as grantor or grantors and under the names of the surface owners as grantee or grantees. Recording the declaration of surface ownership shall entitle surface owners to receive notice described in subdivision (e)(2).

(2) In the event of the sale of severed mineral interest property pursuant to § 67-5-2501, the clerk of the court shall send, by certified return receipt mail, a notice of proceedings regarding the sale of that mineral interest to any owner of the surface interest who has recorded a declaration of surface ownership as described in subdivision (e)(1).

(3)(A) The owner of surface interest who has recorded a declaration of surface ownership according to subdivision (e)(1), and who has received notice of delinquent tax proceedings according to this section may, within one hundred twenty (120) days after the sale pursuant to § 67-5-2501, purchase the mineral interest beneath the owner’s tract for a percentage of the total amount of such sale, which percentage shall be derived from the percentage that the owner’s surface interest bears to the total surface area of the property connected with the mineral interest sold at such tax sale.

(B) Such surface owner shall tender to the clerk of court such amount, including a pro-rated amount of the penalty and interest paid, at the same percentage rate. The clerk shall, within thirty (30) days of receipt of such amount pay the same amount to the person who purchased the mineral interest at the tax sale. The surface owner shall, in addition, pay the clerk for the clerk’s services in such transaction.


(a)(1) Any person who buys real estate sold for delinquent taxes that were a lien thereon, and who shall for any cause fail to get a good title or to recover possession of the realty, shall be subrogated to all liens that secured the taxes, and all interest, costs, penalties and fees; and such person shall have the right to enforce the same in chancery for the reimbursement of the purchase money paid by such person and interest thereon.

(2) The chancery court shall have jurisdiction, in such case, though the amount sued for be less than fifty dollars ($50.00).

(b) A tax deed of conveyance or an order confirming the sale shall be an assurance of perfect title to the purchaser of such land, and no such conveyance shall be invalidated in any court, except by proof that the land was not liable to sale for taxes, or that the taxes for which the land was sold have been paid before the sale or that there was substantial noncompliance with mandatory statutory provisions relating to the proceedings in which the parcel was sold; and if any part of the taxes for which the land was sold is illegal or not chargeable against it, but a part is chargeable, that shall not affect the sale,
nor invalidate the conveyance thereunder, unless it appears that before the sale the amount legally chargeable against the land was paid or tendered to the county trustee, and no other objection either in form or substance to the sale or the title thereunder shall avail in any controversy involving them. An action seeking to invalidate any tax title to a parcel shall allege specific facts establishing the grounds set out herein and proof of compliance with subsection (c) prior to the filing of the complaint.

(c) No suit shall be commenced in any court of the state to invalidate or declare void any tax title to land until the party suing shall have paid or tendered to the clerk of the court where the suit is brought the amount of the bid and all taxes subsequently accrued, with interest and charges as provided in this part.

(d)(1) A suit to invalidate any tax title to land shall be commenced within one (1) year from the date the cause of action accrued, which is the date of the entry of the order confirming the tax sale.

(2) The statute of limitations to invalidate the sale of any tax title shall be one (1) year as set forth in subdivision (d)(1), except that it may be extended to one (1) year after the plaintiff discovered or with the exercise of reasonable diligence should have discovered the existence of such cause of action.

(3) In no event shall any action to invalidate any tax sale title be brought more than three (3) years after the entry of the order confirming the tax sale.

(4) This subsection (d) shall not be construed to prevent or delay issuance of an order quieting title to a tax sale parcel in favor of the purchaser. After entry of an order confirming the sale of a parcel, the purchaser may file suit to quiet title, notwithstanding the deadline for tax sale challenges provided in this subsection (d), or the redemption period provided in part 27 of this chapter. Any order quieting title to a tax sale parcel entered before the expiration of the redemption period shall specify that the purchaser's title to the parcel remains subject to any such remaining redemption period.

(5) Nothing in this subsection (d) shall limit the time in which a motion for excess proceeds may be filed pursuant to § 67-5-2702.

(e) In all cases where the state is not the holder of the legal title to the property bought by it at a tax sale for delinquent state and county taxes, any person desiring to attack the validity of such tax sale may do so by making only the holder of the legal or equitable title thereto and those persons claiming through such holder who are parties to such suit, and it shall not be necessary to make the state a party thereto.

(f) Any person successfully challenging the validity of a tax sale of the person's interest in a parcel shall also be responsible to the person purchasing the property at the tax sale and the purchaser's successors in interest, for any increase in the value of the parcel, including any improvements thereto, from the date of the entry of the order confirming the sale until the entry of a court order declaring the tax sale invalid as to the challenger. In the alternative, the challenger shall be responsible to the person purchasing the property at the tax sale and the purchaser's successors in interest, for all amounts expended by the purchaser or the purchaser's successors as set out in § 67-5-2701(b) and (c), if such amount is in excess of the increased value of the parcel. The purchaser and successors shall have a lien upon the parcel to secure the payment of the amount determined by the court to be due.

(g) An order confirming the sale of a parcel is voidable and may be voided by the court after a determination of the merits of the grounds for the action as set
out in this chapter and any defenses raised.

(h) For the purposes of this chapter, a motion filed pursuant to Rule 60.02 of the Tennessee Rules of Civil Procedure, or any other or successor rule of similar effect, challenging the validity of a tax sale and any independent action for a similar purpose, shall be considered an action to invalidate the sale of a tax title.

(i)(1) An interested person may file an action to challenge a tax title or the instrument conveying such title if the delinquent tax attorney fails to make a diligent effort to give actual notice of the proceeding to the interested person in accordance with § 67-5-2502(c)(3).

(2) Any challenge to a tax title based on lack of notice to an interested party, including any action seeking to declare a title or the instrument conveying such title void ab initio, shall be considered an action to invalidate the sale of a tax title and such action is subject to the provisions of parts 18-28 of this chapter applying to actions to invalidate the sale of a tax title, including the required tender of payment before commencement of a suit in accordance with subsection (c).

(3) This subsection (i) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

67-5-2507. Sale of land — County as purchaser — Deferred sale.

(a)(1) It is the duty of the county mayor of each county to take charge of all the lands bought in by the county at such delinquent tax sales.

(2) During the period when redemption of any such tract of land can be made, the land shall be:

(A) Held and put only to a use that will not result in a waste of the land; or

(B) Sold to a third party, in accordance with subsection (b), subject to the right of redemption. If any parcel is sold subject to redemption, it may be redeemed in accordance with § 67-5-2701.

(3) After the period of redemption has elapsed, it shall be the duty of the county mayor to arrange for the disposition of every tract of such land as expeditiously and advantageously as possible unless parcels acquired by the county are identified by the county mayor, or the mayor’s designee, as being in an area or zoning classification that would make the accumulation of larger areas advantageous to the parcels’ reuse and redevelopment. In such cases, the mayor may hold those properties until a sufficient number of parcels or area has been acquired to improve the parcels’ marketability and redevelopment profile. In no event shall this accumulation result in property being held without being marketed for more than five (5) years.

(4) If the county mayor determines, prior to the sale of a parcel brought in by the county at a delinquent tax sale, that there may be a defect in the title to the parcel, the county mayor may move the court in which the parcel was sold in the tax proceeding, to take action to cure the defect. A diligent effort to give notice of any such motion shall be made as to all interested persons as of the date of the filing of the motion.

(b)(1) A committee of four (4) members shall be elected by the county legislative body, from the county legislative body, who, together with the county mayor, shall place a fair price on each tract of land, for which price the land shall be sold. In counties having adopted the County Financial
Management System Act of 1981, compiled in title 5, chapter 21, the financial management committee created by § 5-21-104 may serve as this committee, instead of the committee as established in this subdivision (b)(1).

(2) Such committee may authorize the sale of any tract of land upon such terms as will secure the highest and best sale price, but the credit extended shall not exceed three (3) years and a lien shall be retained to secure purchase price.

(3) No tract of land shall be sold for an amount less than the total amount of the taxes, penalty, cost and interest, unless the legislative body, upon application, determines that it is impossible to sell the tract of land for this amount, and grants permission to offer the land for sale at some amount to be fixed by such legislative body.

(4) Interest shall be calculated on the full amount of the taxes, penalty, cost and interest from the time of the acquisition of the land by the county until the sale thereof.

(5) [Deleted by 2013 amendment, effective May 13, 2013.]

(6) Whenever the sale of a tract of land is arranged by the county mayor, the deed shall not be executed and the sale shall not become final until ten (10) days after the publication in a newspaper published in the county of a notice of the proposed sale, the name of the purchaser and the terms, conditions and price. The land shall be described in the notice only by number, which shall refer to a description on file with such committee.

(7) If anyone, during such ten (10) days, increases the offer made for the land by ten percent (10%) or more, the party making the first offer shall be notified and a day fixed when both parties shall appear and make offers.

(8) The tract of land shall be sold to the party making the highest and best offer.

(9) Conveyances of the land shall be made without warranties of any sort, and deeds shall be executed by the county mayor or other chief fiscal officer of the county.

(10) The deed shall be prepared by the back-tax attorney as a part of the duties for which the attorney is compensated by the provisions of § 67-5-2410, and no additional compensation shall be allowed.

(11) The county may, upon a majority vote of its legislative body determining it in the best interests of the county to use the property for a public purpose, decide to retain ownership and possession of such property.

(12) This subsection (b) shall not apply in any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(c)(1) As to a particular parcel conveyed to a county pursuant to § 67-5-2501, the county mayor may make an evaluation of the parcel to determine whether the value of the parcel or amount of money the county is likely to receive if the county sold the parcel exceeds the financial obligations or environmental risks associated with the parcel.

(2) If the county mayor determines that such financial obligations or environmental risks exceed the value of the parcel, the county legislative body may adopt a resolution, by a two-thirds (2⁄3) vote, concurring in the county mayor's determination and directing the county mayor to request relief from the court in which the parcel was sold. Such relief shall be sought by motion pursuant to Rule 60 of the Tennessee Rules of Civil Procedure filed within one hundred twenty (120) days after the entry of the order confirming
the sale.

(3) If the court finds that the motion should be granted, the court may rescind its prior order upon such terms as are just. In the event the prior order is rescinded, title to the parcel shall be deemed to have remained in that state which existed as of the date of entry of the prior order confirming the sale. The court shall have broad discretion to ensure that this subsection (c) does not result for any period of time in the creation of a parcel for which no person or entity has responsibility. The court may then appoint a special master and direct the special master to conduct a second sale of the parcel upon such terms and conditions as may be ordered by the court, including the reduction or elimination of the minimum bid that may be accepted at the sale.

(4) In the event no person presents a bid at the second sale of the parcel, the court may thereafter approve a negotiated sale of the parcel upon such terms and conditions as may be ordered by the court or such other relief as the court may order, including the conveyance to a nongovernmental entity claiming contractual rights to dues or assessments pursuant to § 67-5-2516.

(5) This subsection (c) shall be applicable to the financial obligations or environmental risks of an individual parcel only and shall not be applicable to the aggregated financial obligations or environmental risks of all or multiple parcels bid in to the county pursuant to § 67-5-2501.

67-5-2511. Listing of parcels owned by county or municipality.

(a)(1) The county mayor shall cause to be prepared and maintained a listing of all parcels owned by the county acquired pursuant to § 67-5-2501.

(2) The chief executive officer of a municipality shall cause to be prepared and maintained a listing of all parcels owned by the municipality acquired pursuant to § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county under subdivision (a)(1).

(3) Listings pursuant to this subsection (a) shall be prepared no later than July 1, 2018. The listings shall be published in a newspaper of general circulation in the county or posted on the local government website with a notice of the posting published in a newspaper of general circulation in the county.

(b) At least annually, the county mayor shall determine if any additional parcels have been purchased by the county pursuant to § 67-5-2501 and shall publish an updated list, as necessary, in the same manner as the original list in accordance with subdivision (a)(3).

(c) Each list or notice published in accordance with this section may contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.

(d) Parcels acquired by the county which are identified by the county mayor, or the mayor's designee, as being in an area or zoning classification that would make the accumulation of larger areas advantageous to the reuse and redevelopment of the parcels, may be excluded from the list of parcels prepared and maintained under this section until a sufficient number of parcels or property has been acquired to improve the marketability and redevelopment profile of the parcels. In no event shall this accumulation result in property being held without being published for more than five (5) years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.
67-5-2701. Procedure for redemption of property.

(a)(1) Upon entry of an order confirming a sale of a parcel, a right to redeem shall vest in all interested persons. The right to redeem shall be exercised within the time period established by this subsection (a) beginning on the date of the entry of the order confirming the sale, but in no event shall the right to redeem be exercised more than one (1) year from that date. The redemption period of each parcel shall be stated in the order confirming the sale based on the following criteria:

(A) Unless the court finds sufficient evidence to order a reduced redemption period pursuant to this section, the redemption period for each parcel shall be one (1) year;
(B) The redemption period shall be determined for each parcel based on the period of delinquency. Once the period of delinquency is established, the redemption period shall be set on the following scale:
   (i) If the period of delinquency is five (5) years or less, the redemption period shall be one (1) year from the entry of the order confirming the sale;
   (ii) If the period of delinquency is more than five (5) years but less than eight (8) years, the redemption period shall be one hundred eighty (180) days from the entry of the order confirming the sale; or
   (iii) If the period of delinquency is eight (8) years or more, the redemption period shall be ninety (90) days from the entry of the order confirming the sale; and
(C) For all property for which a showing is made pursuant to subdivision (a)(2), the redemption period shall be thirty (30) days from the entry of the order confirming the sale without regard to the number of years of delinquent taxes owed on the property, beyond that required to make the property legally eligible for the sale.

(2) A reasonable basis to believe that real property is vacant, or, in the case of vacant land, a reasonable basis to believe that the property is abandoned, shall, at a minimum, be based upon periodic inspections of the property over a two-month period at different times of the day where three (3) or more inspections reveal evidence of abandonment.

(3) As used in this section:
   (A) “Evidence of abandonment” includes, but is not limited to, any of the following conditions:
   (i) Overgrown or dead vegetation;
   (ii) Accumulation of newspapers, circulars, flyers, or mail;
   (iii) Past due utility notices, disconnected utilities, or utilities not in use;
   (iv) Accumulation of trash, refuse, or other debris;
   (v) Absence of window coverings such as curtains, blinds, or shutters;
   (vi) One (1) or more boarded, missing, or broken windows;
   (vii) The property is open to casual entry or trespass;
   (viii) The property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons; or
   (ix) Any of the conditions in subdivisions (a)(3)(A)(i) - (viii) exist and, if there is a mortgage on the property, the mortgagor does not occupy the property and has informed the mortgagee or loan servicing company in writing that the mortgagor does not intend to occupy the property in the
future;

(B) “Period of delinquency” means, with respect to a parcel, the longest consecutive number of years the property taxes on that parcel are delinquent and have not been paid to a jurisdiction, and for which years the collection of property taxes for that jurisdiction is being sought in the tax sale;

(C) “Person entitled to redeem” means, with respect to a parcel, any interested person, as defined in this chapter, as of the date of the sale and the date the motion to redeem is filed;

(D) “Vacant and abandoned” with respect to real property:

(i) Means:

(a) There is a reasonable basis to believe the property is not occupied as determined in accordance with subdivision (a)(2); or

(b) A court has determined that the property is a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners, or has otherwise declared the property unfit for occupancy; and

(ii) Does not include:

(a) An unoccupied building that is undergoing construction, renovation, or rehabilitation at the hands of a properly licensed contractor pursuant to a building permit; is proceeding to completion; and is in compliance with all applicable ordinances, codes, regulations, and statutes;

(b) A building occupied on a seasonal basis that is otherwise secure;

(c) A building that is secure, but is the subject of a probate action, action to quiet title, or other similar ownership dispute; provided, that the owners are exercising diligence in pursuit of resolution of the dispute;

(d) A building damaged by a natural disaster and one (1) or more owners intend to repair and reoccupy the property; provided, that the owners are exercising diligence in pursuit of completion of repairs at the property in accordance with subdivision (a)(3)(D)(ii)(a); or

(e) Any property occupied by the owner, a relative of the owner, or a tenant lawfully in possession; provided, that neither subdivision (a)(3)(A)(viii) nor subdivision (a)(3)(D)(ii)(b) applies to the property.

(b)(1) In order to redeem a parcel, the person entitled to redeem shall file a motion to such effect in the proceedings in which the parcel was sold. The motion shall describe the parcel, the date of the sale of the parcel, the date of the entry of the order confirming the sale and shall contain specific allegations establishing the right of the person to redeem the parcel. Prior to the filing of the motion to redeem, the movant shall pay to the clerk of the court an amount equal to the total amount of delinquent taxes, penalty, interest, court costs, and interest on the entire purchase price paid by the purchaser of the parcel. The interest shall be at the rate of twelve percent (12%) per annum, which shall begin to accrue on the date the purchaser pays the purchase price to the clerk and continuing until the motion to redeem is filed. If the entire amount owing is not timely paid to the clerk or if the motion to redeem is not timely filed, the redemption shall fail.

(2) In any motion to enforce a right of redemption brought by a transferee against a tax sale purchaser or other interested party:

(A) The tax sale purchaser or other interested party in whom the right of redemption originally vested must be served with a copy of the motion
to redeem;

(B) The motion to redeem must be denied on the objection or response to the motion to redeem by the tax sale purchaser or any other interested party if it appears that the transferee is engaged in speculation or profiteering with respect to such right of redemption;

(C) Such speculation and profiteering is presumed if it appears that the transfer of the right of redemption was made for consideration in an amount less than the purchase price paid by the tax sale purchaser at the tax sale minus the amount the debtor would have been required to pay to redeem the property under this chapter; and

(D) If a motion to redeem by a transferee is denied under this subdivision (b)(2) based on a finding by the court of such speculation and profiteering, the court may award reasonable attorney’s fees to the tax sale purchaser or any other interested party challenging the motion to redeem.

(3) Subdivision (b)(2) is intended to:

(A) Further the public policies of this state of protecting the interests of owners of real property subject to debt, protecting the integrity of the tax sale process, providing reliable tax sale titles to purchasers, and prohibiting the profiteering and speculation in rights of redemption; and

(B) Be remedial and construed to apply to any existing rights of redemption.

(c) Upon the filing of the motion to redeem and the payment of the required amount, the clerk shall within ten (10) days send a notice of the filing of the redemption motion to the purchaser and all persons entitled to redeem the parcel. The notice of redemption shall state the amount paid at the time of the filing of the motion and refer the persons to this section.

(d) The purchaser may within thirty (30) days after the mailing of the notice of redemption, file a response seeking additional funds to be paid by the proposed redeemer to compensate the purchaser for amounts expended by the purchaser for the purposes set out in subsection (e). The response shall specifically set out the basis for each category of additional funds claimed. The response may also allege that the motion to redeem was not properly or timely filed. If no response is timely filed, the court shall determine whether the redemption has been properly made, and if so, shall cause an order to be entered requiring the proposed redeemer to pay additional interest at the rate set forth in subsection (b), accruing from the date the motion to redeem was filed until the date of such payment.

(e) Additional sums to be paid by the proposed redeemer at the demand of the purchaser, shall include the following:

(1) Additional ad valorem taxes, penalty, interest and court costs paid by the purchaser secured by a lien against the parcel, plus interest thereon at the rate set forth in subsection (b), accruing from the date of payment of the additional taxes by the purchaser until the date of payment by the proposed redeemer pursuant to order of the court;

(2) Reasonable payments made by the purchaser for insurance on the parcel and any improvements thereon;

(3) Reasonable cost paid by the purchaser to avoid permissive waste of the parcel;

(4) Reasonable expenses paid by the purchaser as a result of a judicial or administrative order or other official notice requiring the purchaser to immediately bring the property into compliance with applicable building
code or zoning regulations;

(5) Reasonable payments by the purchaser for homeowner’s association dues or obligations resulting from covenants running with the land which are secured by a lien against the parcel; and

(6) Additional interest at the rate set out in subsection (b), accruing from the date the motion to redeem was filed until the date the purchaser’s response was filed. If the court determines that the purchaser has not delayed consideration of the motion to redeem and that any response filed by the purchaser for additional funds was based on a reasonable expectation that the expenditures of the purchaser were reimbursable pursuant to this section, then the court may require the proposed redeemer to also pay additional interest at the same rate, accruing from the date the purchaser’s response was filed until the date of such payment.

(f) Any additional funds ordered to be paid by the proposed redeemer under this section shall be paid to the clerk prior to the later of the following dates:

(1) The date of the expiration of the redemption period; or

(2) Thirty (30) days after the entry of the order allowing additional funds.

(g) If the proposed redeemer timely pays the full amount of any additional funds ordered by the court, the court shall declare that the property has been redeemed.

(h) If the proposed redeemer fails to timely pay the full amount of any additional funds ordered by the court, the redemption shall fail and any funds paid by the proposed redeemer shall be refunded to him less the clerk’s fee and any other court costs.

(i) In the event a person tenders the full amount owing in the proceeding at a time after the date of sale and prior to the entry of an order confirming the sale, the person shall also pay interest computed as established by subsection (b) on the total purchase price paid by the purchaser.

(j) The court in which the proceedings are pending may order that any proposed redeemer shall also pay to the clerk the amount necessary to record any orders of the court in the office of the register of deeds. Such payment may be required to be paid upon the filing of the motion to redeem or upon determining whether any additional funds are to be allowed.

(k) Upon any order pertaining to redemption becoming final, the clerk shall make such disbursements as are provided in the order.

(l) In the event the court directs the delinquent tax attorney or an attorney ad litem to participate in the redemption portion of the proceedings as an assistance to the court, the court may allow a reasonable attorneys fee to be paid by either the movant or the purchaser as directed by the court.

(m) In the event all parties to the action waive their right to appeal all issues in the cause, the clerk shall immediately disburse all amounts owing.

(n) Upon entry of an order of the court declaring that the redemption is complete, title to the parcel shall be divested out of the purchaser, and the clerk shall promptly refund the purchase money and pay all sums due to the purchaser under this section. The interests of the taxpayer and other interested parties, or their successors in interest, shall be restored to that state which existed as of the date of entry of the order confirming the sale. Any lienholder who redeems the parcel may thereafter proceed to foreclose upon the parcel or otherwise enforce such lien.

(o) During the redemption period, the purchaser shall have no obligation to purchase insurance on the parcel and shall not be liable to a person redeeming
the parcel for damages to the parcel during such redemption period unless such damages are directly caused by intentional acts of the purchaser. This subsection (o) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(p) During the redemption period and thereafter, a taxing entity which has purchased a parcel pursuant to § 67-5-2501 shall have no obligation to preserve the value of the parcel. This subsection (p) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

67-5-2702. Motion setting forth claim to excess sale proceeds — Service of motion — Hearing on motion — Recovery of excess proceeds paid in error.

(a) Following entry of the order of confirmation of sale, any interested person, as defined in this chapter, may file a motion with the court requesting disbursement of any excess sale proceeds pursuant to this section.

(b) A copy of such motion shall be served, in the manner prescribed by the Rules of Civil Procedure, on all parties to the underlying action, no later than thirty (30) days prior to the hearing date of the motion.

(c) At the hearing, the court shall order that any remaining redemption period shall be terminated as to the movant and as to any other person entitled to redeem property who consents to such termination as evidenced by their signature on such order, and any excess proceeds be paid according to the following priorities to each party that establishes its claim to the proceeds:

1. To the tax entity or entities prosecuting the delinquent tax sale, for any remaining or subsequent outstanding taxes that are a lien against the property;

2. To any lienholder, private or public, holding a claim against the property at the time of the tax sale, for the amount proven to be due under such lien, in accordance with priorities established by applicable law;

3. To any lienholder, private or public, holding a claim against the property arising after the tax sale, for the amount proven to be due under such lien, in accordance with priorities established by applicable law;

4. To any taxpayer, according to such taxpayer's interest at the time of the tax sale; provided, that such taxpayer was a defendant in the underlying action, or acquired by will or intestate succession the interest in the property of a former taxpayer who was a defendant in the underlying action; and

5. Any remaining excess proceeds shall be subject to the Uniform Unclaimed Property Act, compiled in title 66, chapter 29, part 1. A motion for excess proceeds may be filed in the court in which the proceeding is pending until such time as the funds are actually forwarded to the state pursuant to the Uniform Unclaimed Property Act. The presumption of abandonment shall not arise until the final determination of all filed motions for redemption and excess proceeds or one (1) year following the expiration of the redemption period for that parcel, whichever is later.

(d) A person who claims to be the owner of an interest in a parcel, which is the subject of a motion to claim any excess proceeds from a delinquent tax sale shall record the document effecting such ownership, or an abstract thereof, or an affidavit of heirship, in the office of the register of deeds for the county in which the parcel is located, prior to thirty (30) calendar days before the day on
which the motion is scheduled to be heard. A person who fails to timely record such document shall not be entitled to notice of the motion to claim excess proceeds as referred to in subsection (a).

(e) In the event an owner who failed to receive notice of the motion to claim excess proceeds, absent any fault on the owner’s part, claims that a person has received excess proceeds in error or in excess of the person’s correct share to the detriment of the owner, the owner shall have a right of action against such person for the recovery of such excess proceeds as may have been paid in error. Such right of action shall be the exclusive remedy of such an owner.

(f) For the purposes of this section, “in accordance with priorities established by applicable law” means that the priority of the interests in the parcel shall transfer to the proceeds from the sale of the parcel.

(g) In the event the court directs the delinquent tax attorney or an attorney ad litem to participate in the excess sale proceeds portion of the proceedings as an assistance to the court, the court may allow a reasonable attorney’s fee to be assessed as directed by the court.

67-5-2801. Industrial and commercial personal property taxes, penalties, interest, attorney fees and costs — Waiver of enforcement and collection.

(a) The trustee or collector may request the delinquent tax attorney to seek court approval in order to waive the enforcement and collection of all, but not a portion of, industrial and commercial personal property taxes, penalties, interest, attorney fees and costs. All of the following must be determined and attested to by the trustee or collector before a court may approve a waiver:

1. The taxpayer has ceased all business operations;
2. No personal property subject to the tax can be found; and
3. Neither fraud nor an intention to avoid payment of the taxes on the part of the taxpayer caused the circumstances giving rise to such waiver.

(b) In order to waive the enforcement and collection of taxes, including penalties, interest, or attorney fees and costs, imposed on public utility personal property or personal property of modern market telecommunications providers, the trustee or collector must first confirm with the comptroller of the treasury that such taxpayer’s local assessment only includes personal property and does not include any real property. If such taxpayer is still operating, then no waiver may be requested or approved even if the local assessment only includes personal property and no personal property can be found in the trustee’s or the collector’s jurisdiction. If such taxpayer has ceased all operations and the local assessment does not include any real property, then the trustee or the collector may request a waiver in accordance with subdivisions (a)(1)-(3).

(c) The trustee or collector is required to submit a report to the chief executive officer of the local government and the county assessor of all waivers approved by the court when no delinquent tax lawsuit has been filed. The report shall contain the taxpayer’s name and amount of taxes, penalties, interest, attorney fees, and costs waived. The waivers approved by the court under this subsection (c) are to be included and written as a credit in the monthly settlement and annual statement in accordance with §§ 67-5-1903 and 67-5-1904.

(d) With respect to delinquent personal property taxes being waived under
this section, for which the delinquent lawsuit has been filed, the court having jurisdiction of the delinquent tax lawsuit may, upon motion by the delinquent tax attorney and a finding that the factors outlined in subdivisions (a)(1)-(3) or subsection (b) exist, order the waiver of enforcement and collection of all, but not a portion of, such personal property taxes, penalties, interest, attorney fees and costs.

67-6-102. Chapter definitions — Definitions applicable for taxation of charges for mobile telecommunications services. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

As used in this chapter, unless the context otherwise requires:

(1) “Advertising agency” means a business, more than eighty percent (80%) of whose gross receipts in the previous taxable year were, or in the first taxable year are reasonably projected to be, from charges for advertising services. For purposes of this definition, “gross receipts” does not include charges for printing, imprinting, reproduction, publishing of tangible personal property or photography to the extent that:

(A) The activity was not performed by the business itself but was contracted out to another business; and

(B) The charges for the activity were passed through the business to its client;

(2) “Advertising materials” means tangible personal property or its digital equivalent produced to advertise a product, service, idea, concept, issue, place or thing, including, but not limited to, brochures, catalogs and point-of-purchase materials, but not including preliminary artwork, and not including original sound recordings or video recordings produced by recording studios, television studios, video production studios or by or for advertising agencies, or masters produced from the original recordings, regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(3)(A) “Advertising services” means services rendered by an advertising agency to promote a product, service, idea, concept, issue, place or thing, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including, but not limited to:

(i) Advice and counseling regarding marketing and advertising;

(ii) Strategic planning for marketing and advertising;

(iii) Consumer research;

(iv) Account planning;

(v) Public relations;

(vi) Design;

(vii) Layout;

(viii) Preparation of preliminary art;

(ix) Creative consultation, coordination, media placement, direction and supervision;

(x) Script and copywriting;

(xi) Editing;

(xii) Supervision of the production of advertising materials, including quality control;
(xiii) Direct mail; and
(xiv) Account management services;
(B) “Advertising services” does not include the production of final artwork or advertising materials;
(4) “Agricultural purposes” means operating tractors or other farm equipment used exclusively, whether for hire or not, in plowing, planting, harvesting, raising or processing of farm products at a farm, nursery or greenhouse, operating farm irrigation systems, or operating motor vehicles or other logging equipment used exclusively, whether for hire or not, in cutting and harvesting trees, when the vehicles or equipment are not operated upon the public highways of this state;
(5) “Aircraft” has the same meaning used in § 42-1-101;
(6) “Alcoholic beverages” means beverages that are suitable for human consumption and contain one half of one percent (0.5%) or more of alcohol by volume;
(7) “Ancillary services” means services that are associated with, or incidental to, the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance service, vertical service, and voice mail service. As used in this subdivision (7):
   (A) “Conference bridging service” means an ancillary service that links two (2) or more participants of an audio or video conference call, and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;
   (B) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement;
   (C) “Directory assistance” means an ancillary service of providing telephone number information, and address information;
   (D) “Vertical service” means an ancillary service that is offered in connection with one (1) or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and
   (E) “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service;
(8)(A) “Business” means any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect;
   (B) “Business” does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by or purchased from a person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. “Business” does not include those occasional or isolated sales or transactions by such a person involving mobile homes or house trailers, as defined by § 55-4-111, when the consummation of such exclusively involves the
assumption by the purchaser of a previously existing finance contract and no other consideration is received by the seller. “Business” does not include any sales or use tax of tangible personal property of any type sold directly to consumers by any person, including, but not limited to, the Girl Scouts or county fairs; provided, however, that the tangible personal property is not regularly sold by the person or is regularly sold by the person only during a temporary sales period that occurs on a semiannual, or less frequent, basis, or, if sold by a volunteer fire department, only during a temporary sales period that occurs no more than four (4) times per calendar year. For charitable entities whose primary purpose is fundraising in support of a city, county or metropolitan library system, “business” does not include sales that the charitable entity elects to make in lieu of two semiannual temporary sales periods; provided, that the sales do not exceed one hundred thousand dollars ($100,000) per calendar year; and provided further, that the election by the charitable entity shall remain in effect for no less than four (4) years. For a community foundation described in 26 U.S.C. § 170(c)(2), “business” does not include sales that the community foundation elects to make in lieu of two (2) semiannual temporary sales periods; provided, that in any calendar year, the sales shall take place during no more than two (2) auctions, which last no more than twenty-four (24) hours, in each county designated to receive charitable support from a fund or trust that comprises a component part of the community foundation, as described in 26 CFR § 1.170A-9(f)(11)(ii);

(C) “Business” includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between corporations and their members or stockholders and also includes such transactions caused by the merger, consolidation, or reorganization of corporations. “Business” also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Transfers caused by the dissolution of a partnership due solely to a partner, in a partnership composed of three (3) or more persons, voluntarily ceasing to be associated in the carrying on of business of the partnership, as provided in § 61-1-128 [repealed], is not included in “business.” “Business” shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles, which terms include trailers and special motor equipment sold in conjunction therewith, as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are married, lineal relatives or spouses of lineal relatives, or siblings. Such sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such aircraft that are so based shall constitute evidence thereof;

(9) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration;

(10) “Certified automated system” means software certified under the Streamlined Sales and Use Tax Agreement (SSUTA) to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax
to remit to the appropriate state, and maintain a record of the transaction;

(11) “Certified service provider” means an agent certified under the Streamlined Sales and Use Tax Agreement to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(12) “Clothing” means all human wearing apparel suitable for general use;

(13) “Clothing accessories or equipment” means incidental items worn on the person or in conjunction with clothing;

(14) “Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(15) “Commissioner” means and includes the commissioner of revenue or the commissioner’s duly authorized assistants;

(16) “Common carrier” means every person holding a certificate of public convenience and necessity as a common carrier from the interstate commerce commission or the United States department of transportation or its predecessor agency of the federal government;

(17) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;

(18) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task;

(19) “Computer software maintenance contract” means a contract that obligates a person to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both. However, “computer software maintenance contract” does not include telephone or other support services that are optional and are sold separately and invoiced separately and do not include any transfer, repair or maintenance of computer software on the part of the seller;

(20) “Construction machinery” means machinery designed for and used exclusively in the preparation for, assembly, fabrication, and finishing of permanent improvements to real estate;

(21) “Cost price” means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever;

(22) “Data center” means a building or buildings, either newly constructed, expanded, or remodeled, housing high-tech computer systems and related equipment;

(23) “Dealer” means every person, as used in this chapter, including Model 1, Model 2, and Model 3 sellers, where the context requires, who:

(A) Manufactures or produces tangible personal property for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(B) Imports, or causes to be imported, tangible personal property from any state or foreign country, for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(C) Sells at retail, or who offers for sale at retail, or who has in such person’s possession for sale at retail, or for use, consumption, distribution, or storage to be used or consumed in this state, tangible personal property
as defined in this section;

(D) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of the tangible personal property;

(E) Leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of the property without transferring title to such property;

(F) Is the lessee or renter of tangible personal property, as defined in this chapter, and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title to such property;

(G) Maintains or has within this state, directly or by a subsidiary, an office, distributing house, sales room or house, warehouse, or other place of business;

(H) Furnishes any of the things or services taxable under this chapter;

(I) Has any representative, agent, salesperson, canvasser or solicitor operating in this state, or any person who serves in such capacity, for the purpose of making sales or the taking of orders for sales, regardless of whether such representative, agent, salesperson, canvasser or solicitor is located here permanently or temporarily, and regardless of whether an established place of business is maintained in this state;

(J) Engages in the regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system;

(K) Uses tangible personal property, whether the title to such property is in such person or some other entity, and whether or not such other entity is required to pay a sales or use tax, in the performance of such person's contract or to fulfill such person's contract obligations, unless such property has previously been subjected to a sales or use tax, and the tax due thereon has been paid;

(L) Sells at retail or charges admission, dues or fees as defined in this chapter; or

(M) Rents or provides space to a dealer without a permanent location in this state or to dealers who are registered for sales tax at other locations in this state, but who are making sales at this location on a less than permanent basis; provided, that “dealer” does not include flea market operators;

(24) “Delivered electronically” means delivered to the purchaser by means other than tangible storage media;

(25)(A) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Delivery charges shall not include delivery for direct mail when the charges are separately stated on an invoice or similar billing document given to the purchaser. If the shipment includes exempt property and taxable property, the seller should allocate the delivery charge by using:
(i) A percentage based on the total sales price of the taxable property compared to the sales prices of all property in the shipment; or
(ii) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment;
(B) The seller shall tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the exempt property;
(26) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that:
(A) Contains one (1) or more of the following dietary ingredients:
   (i) A vitamin;
   (ii) A mineral;
   (iii) An herb or other botanical;
   (iv) An amino acid;
   (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
   (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in subdivisions (26)(A)(i)-(v);
(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and
(C) Is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to 21 CFR 101.36;
(27) “Digital audio works” means works that result from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically, including prerecorded or livesongs, music, readings of books or other written materials, speeches, ringtones, or other sound recording. For purposes of this subdivision (27), “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication. “Digital audio works” does not include audio greeting cards sent by electronic mail;
(28) “Digital audio-visual works” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. “Digital audio-visual works” includes motion pictures, musical videos, news and entertainment programs, and live events. “Digital audio-visual works” does not include video greeting cards sent by electronic mail or video or electronic games;
(29) “Digital books” means works that are generally recognized in the ordinary and usual sense as “books” that are transferred electronically, including works of fiction and nonfiction and short stories. “Digital books” does not include newspapers, magazines, periodicals, chat room discussions or weblogs;
(30) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. “Direct mail” does not include
multiple items of printed material delivered to a single address;

(31) “Direct pay permit” means special written permission granted to a taxpayer by the commissioner to make all purchases free of the sales or use tax and report all sales or use tax due directly to the department;

(32) “Direct pay permit holder” means a taxpayer who holds a direct pay permit;

(33) “Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:
   (A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;
   (B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
   (C) Intended to affect the structure or any function of the body;

(34)(A) “Durable medical equipment” means equipment that:
   (i) Can withstand repeated use;
   (ii) Is primarily and customarily used to serve a medical purpose;
   (iii) Generally is not useful to a person in the absence of illness or injury; and
   (iv) Is not worn in or on the body;
   (B) “Durable medical equipment” includes repair and replacement parts for the equipment; provided, however, that the repair and replacement parts shall not include parts, components, or attachments that are for single patient use. “Durable medical equipment” does not include mobility enhancing equipment;

(35) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(36) “Energy resource recovery facility” means a facility for the production of energy in the form of steam or chilled water from the controlled burning of combustible materials, including, but not limited to, coal, fuel oil, or natural gas, where such energy is to be used in a system for heating and cooling five (5) or more separate buildings;

(37) “Fabricating or processing tangible personal property for resale” means only tangible personal property that is fabricated or processed for resale and ultimate use or consumption off the premises of the one engaging in such fabricating or processing, or hot mix asphalt and crushed stone fabricated by a contractor for use by the contractor in highway or road construction projects funded by tax revenues. “Fabricating or processing tangible personal property for resale” shall be deemed to include providing fabrication and repair services to aircraft owned by nonaffiliated business entities whether commercial, governmental or foreign; provided, that the dealer performing such services qualifies for the credit allowed in § 67-4-2109(b). “Fabricating or processing tangible personal property for resale” shall not include any other type of repair services. “Fabricating or processing tangible personal property for resale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(38) “Final artwork” means tangible personal property or its digital equivalent that is suitable for use in producing advertising materials and includes, but is not limited to, photographs, illustrations, drawings, paintings, calligraphy, models and similar works that are used to produce
advertising materials, but does not include preliminary artwork or original sound recordings or video recordings produced by recording studios, television studios, video production studios, or by or for advertising agencies, or masters produced from the original recordings regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(39) “Flea market” means a place of business that provides space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market” does not include hotels, convention centers, municipal auditoriums, municipal coliseums, or gun shows, if such gun shows are sponsored by a not-for-profit corporation;

(40) “Flea market operator” means any person who receives compensation for providing space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market operator” does not include a hotel, convention center, municipal auditorium, municipal coliseum, or gun show operator, if such gun shows are sponsored by a not-for-profit corporation;

(41) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, candy, dietary supplements, or prepared food;

(42) “Grooming and hygiene products” are soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of over-the-counter drugs;

(43) “Gross sales” means the sum total of all retail sales of tangible personal property and all proceeds of services taxable under this chapter as defined in this section, without any deduction whatsoever of any kind or character, except as provided in this chapter;

(44) “Industrial machinery” means:

(A)(i) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises, or pollution control facilities primarily used for air pollution control or water pollution control, where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one's principal business or who engages in the fabrication or processing of materials into trusses, window units or door units for resale as part of the principal business of the sale of building supplies either within or without this state, or such use by a county, municipality, or water and wastewater treatment authority created by private act or pursuant to the Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6, or a contractor pursuant to a contract with the
county, municipality, or water and wastewater treatment authority for use in water pollution control or sewage systems, also mining machinery, apparatus equipment and materials, with all associated parts and accessories, including repair parts and any necessary repair or installation labor, that is necessary to and primarily for:

(a) The removal, extraction or detachment of coal from land by surface, underground or other lawful methods of mining and the construction or maintenance of necessary ingress and egress from the mine;

(b) The removal, handling and replacement of overburden and spoils materials; or

(c) The reclamation of mined areas reclaimed under state or federal laws, rules or regulations;

(ii) As used in this chapter, “pollution control facilities” means any system, method, improvement, structure, device or appliance appurtenant thereto used or intended for the primary purpose of eliminating, preventing or reducing air or water pollution, or for the primary purpose of treating, pretreating, recycling or disposing of any hazardous or toxic waste, solid or liquid, when such pollutants are created as a result of fabricating or processing by one who engages in fabricating or processing as such person’s principal business activity, which, if released without such treatment, pretreatment, modification or disposal, might be harmful, detrimental or offensive to the public and the public interest;

(B) Machinery that is necessary to and primarily for remanufacturing industrial machinery as defined in subdivision (44)(A) when such utilization is by one whose principal business is that of remanufacturing industrial machinery. For the purposes of this subdivision (44)(B), “remanufacturing” means making new or different products with new or different functions from the scrap materials used to make them;

(C) Machinery utilized in the pre-press and press operations in the business of printing, including plates and cylinders, and including the component parts and fluids or chemicals necessary for the specific mechanical or chemical actions or operations of such machinery, plates and cylinders, regardless of whether or not the operations occur at the point of retail sales;

(D) Such industrial machinery necessary to and primarily for the fabrication and processing of tangible personal property for resale or used primarily for the control of air pollution or water pollution includes, but is not limited to:

(i) Machines used for generating, producing, and distributing utility services, electricity, steam, and treated or untreated water; and

(ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the end of the manufacturing process to storage;

(E)(i) Machinery used to package manufactured items, where the use of such machinery is by a person whose principal business is fabricating or processing tangible personal property for resale. Notwithstanding the principal business of the user, this exemption shall also apply where the use of such machinery at a location is to package automotive aftermarket products manufactured at other locations by the same person or by
a corporation affiliated with the manufacturing corporation such that:

(a) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(b) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent;

(ii) To “package,” as used in subdivision (44)(E)(i), refers only to the fabrication and/or installation of that packaging that will accompany the product when sold at retail;

(F) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale and consumption off the premises or used primarily for the control of air pollution or water pollution does not include machinery, apparatus and equipment used prior to or after equipment exempted by subdivision (44)(D)(ii), and does not include equipment used for maintenance or the convenience or comfort of workers;

(G) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabricating or processing of prescription eyewear, where a majority of such eyewear is ultimately dispensed to patients in states other than Tennessee;

(H)(i) Material handling equipment and racking systems, used by the taxpayer directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, that are purchased beginning one (1) year prior to the start of the construction or expansion and ending one (1) year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. “Qualified, new or expanded warehouse or distribution facility” means a new or expanded facility, that meets the requirements set out in this subdivision (46)(H), for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled or sold over-the-counter to consumers, except for taxpayers that qualify under chapter 185 of the Public Acts of 1995, or are configuring, testing or packaging computer products. “Configuring” computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software. A qualifying facility must also be:

(a) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, in a newly constructed and previously unoccupied building and/or equipment for the facility;

(b) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (44)(H)(i), through an additional investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer over an additional period not exceeding three (3) years, for additions to the building and the purchase of new equipment for use in the expanded facility;
(c) A warehouse or distribution facility in this state that is purchased and either renovated or expanded through an investment in excess of ten million dollars ($10,000,000) in such purchase and renovation or expansion by the taxpayer, and/or a lessor to the taxpayer, including the purchase of new equipment for such a building, over a period not exceeding three (3) years; or

(d) An expansion to an existing warehouse or distribution facility in this state through an aggregate investment in excess of twenty million dollars ($20,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, consisting of an investment in excess of ten million dollars ($10,000,000) in the renovation or expansion of an existing building and/or the purchase of new equipment for such a building, together with an investment in excess of ten million dollars ($10,000,000) in the construction of a new, previously unoccupied building and/or equipment for such a building;

(ii) A taxpayer shall qualify for the exemption afforded to material handling and racking systems under subdivision (44)(H)(i) by submitting an application to the commissioner for the exemption, together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the commissioner. The plan shall demonstrate that the requirements of the law will be met. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax. However, if the requisite investment is not made in the time period required, or the terms of the statute are not met, the taxpayer shall be subject to assessment for any tax, penalty or interest that would otherwise have been due;

(I) Material handling equipment and racking systems used in a warehouse and distribution facility, subject to all the requirements and conditions of subdivision (44)(H), except:

(i) The required investment in excess of ten million dollars ($10,000,000) may also be made in a previously occupied facility:

(a) Through the purchase of a building, and/or the purchase of new equipment for use in the building no later than one (1) year after the purchase of the building; or

(b) Through the purchase of new equipment for use in a leased building, not qualifying under subdivision (44)(I)(i)(a), made no later than one (1) year after the date of the lease agreement; and

(ii) Any purchases exempted from tax for use in the facility described in this subdivision (44)(I) must be made no later than one (1) year after the purchase of the building under subdivision (44)(I)(i)(a), or no later than one (1) year after the date of the lease agreement under subdivision (44)(I)(i)(b);

(J) “Industrial machinery” does not include machinery, apparatus and equipment, with all associated parts, appurtenances, accessories, repair parts, and necessary repair or taxable installation labor therefor, that is used in the preparation of food for immediate retail sale;

(K) “Industrial machinery” also includes any “computer”, “computer network”, “computer software”, or “computer system”, as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware such as printers, plotters, external disc drives, modems, and
telephone units, when such items are used in the operation of a qualified data center. For purposes of this subdivision (44)(K), “industrial machinery” includes repair parts, repair or installation services, and warranty or service contracts, purchased for such items used in the operation of a qualified data center;

(L) “Industrial machinery” includes machinery, apparatus and equipment with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is necessary to and used primarily for the conversion of tangible personal property into taxable specified digital products for resale and consumption off the premises. “Industrial machinery” does not include machinery, apparatus or equipment, with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is used primarily for the storage or distribution of such specified digital products following such conversion;

(M) [Deleted by 2015 amendment, effective April 24, 2015.]

(N) [Expired effective December 31, 2016.]

(O) “Industrial machinery” also includes machinery, apparatus, and equipment with all associated parts, appurtenances, and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts, and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the purpose of research and development;

(45) “International,” as used in connection with telecommunications services, means a telecommunications service that originates or terminates in the United States, and terminates or originates outside the United States, respectively. United States includes the District of Columbia and a United States territory or possession;

(46) “Interstate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession;

(47) “Intrastate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession;

(48) “Layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser;

(49) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A “lease or rental” may include future options to purchase or extend;

(A) “Lease or rental” does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments
and payment of an option price does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision (49), an operator must do more than maintain, inspect, or set-up the tangible personal property;

(B) “Lease or rental” includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1);

(C) This subdivision (49) shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, compiled in 26 U.S.C., or title 47, chapter 2A, or other federal, state or local law;

(D) This subdivision (49) shall be applied only prospectively from the date of adoption [January 1, 2008] and shall have no retroactive impact on existing leases or rentals;

(50) “Livestock and poultry feed” means and includes all grains, minerals, salts, proteins, fats, fibers and all vitamins, acids and drugs used and mixed with such ingredients as a growth stimulant, disease preventive, to stimulate feed conversion and make a complete feed;

(51) “Local tax jurisdiction” means a geographic area where the same local option tax, either county tax or a combination of county and municipal tax, applies;

(52) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, Public Law 106-252, codified in 4 U.S.C. § 124(7);

(53) “Mobility enhancing equipment” means equipment, including repair and replacement parts to the equipment, but does not include durable medical equipment that:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(54) “Model 1 seller” means a seller that has selected a certified service provider as its agent to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(55) “Model 2 seller” means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax;

(56) “Model 3 seller” means a seller that has sales in at least five (5) states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least five hundred million dollars ($500,000,000), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subdivision (56), a seller includes an affiliated group of
sellers using the same proprietary system;

(57) “OEM headquarters company” means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision (57), “affiliate” has the same meaning as provided in § 67-4-2004;

(58) “OEM headquarters company vehicle” means any motor vehicle subject to registration in accordance with title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or such other uses as approved by the commissioner, and, further, including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner;

(59)(A) “Over-the-counter-drug” means a drug that contains a label that identifies the product as a drug as required by 21 CFR 201.66. The “over-the-counter-drug” label includes:

(i) A drug facts panel; or

(ii) A statement of the active ingredients, with a list of those ingredients contained in the compound, substance or preparation;

(B) “Over-the-counter-drug” does not include grooming and hygiene products;

(60) “Permanent location” does not include any booths or space located at a flea market, antique mall, craft show, antique show, gun show, auto show or any similar type business;

(61) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, any governmental agency whose services are essentially a private commercial concern, or other group or combination acting as a unit, in the plural as well as the singular number. “Person” further includes any political subdivision or governmental agency, including electric membership corporations or cooperatives, and utility districts, to the extent that such agency sells at retail, rents or furnishes any of the things or services taxable under this chapter;

(62) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, “place of primary use” shall be within the licensed service area of the home service provider;

(63) “Preliminary artwork” means tangible personal property and digital equivalents that are produced by an advertising agency in the course of providing advertising services solely for the purpose of conveying concepts or ideas or demonstrating an idea or message to a client and includes, but is not limited to concept sketches, illustrations, drawings, paintings, models, photographs, storyboards or similar materials;

(64) “Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance and that enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;
(65) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service, as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services that must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount;

(66)(A) “Prepared food” means:
   (i) Food sold in a heated state or heated by the seller;
   (ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or
   (iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;

(B) “Prepared food” in subdivision (66)(A)(ii) does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration (FDA) in chapter 3, § 401.11 of the FDA's food code so as to prevent food borne illnesses;

(67) “Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state;

(68) “Prewritten computer software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or prewritten portions of computer software does not cause the combination to be other than prewritten computer software. “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of that person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion of the computer software that is modified or enhanced to any degree, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software;

(69) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(70)(A) “Prosthetic device” means a replacement, corrective, or supportive device including repair and replacement parts for the replacement, corrective, or supportive device worn on or in the body to:
(i) Artificially replace a missing portion of the body;
(ii) Prevent or correct physical deformity or malfunction; or
(iii) Support a weak or deformed portion of the body;
(B) “Prosthetic device” does not include:
(i) Corrective eyeglasses; or
(ii) Contact lenses;
(71) “Protective equipment” means items for human wear, designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property, but not suitable for general use;
(72) “Purchase price” applies to the measure subject to use tax and has the same meaning as sales price;
(73) “Qualified data center” means a data center that has made a required capital investment in excess of one hundred million dollars ($100,000,000) during an investment period not to exceed three (3) years and that creates at least fifteen (15) net new full-time employee jobs during the investment period paying at least one hundred fifty percent (150%) of the states' average occupational wage as defined in § 67-4-2004. For purposes of this subdivision (73), “required capital investment” means an increase of a business investment in real property, tangible personal property or computer software owned or leased in the state, valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. For purposes of this subdivision (73), “full-time employee job” means a permanent, rather than seasonal or part-time employment position for at least twelve (12) consecutive months to a person for at least thirty-seven and one half (37 ½) hours per week with minimum health care, as described in title 56, chapter 7, part 22. The three-year period for making the required capital investment provided for in this subdivision (73) may be extended by the commissioner of economic and community development for a reasonable period, not to exceed four (4) years, for good cause shown. For purposes of this subdivision (73), “good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the exemption for industrial machinery used by a qualified data center;
(74) “Rain check” means the seller allows a customer to purchase an item at a certain price at a later time, because the particular item was out of stock;
(75)(A) “Resale” means a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. “Sale for resale” means the sale of the property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale shall, however, be in strict compliance with rules and regulations promulgated by the commissioner;
(B)(i) “Sale for resale” does not include a sale of tangible personal property or software to a dealer for use in the business of selling services. Property used in the business of selling services includes, but is not limited to, property that is regularly furnished to purchasers of the service without separate charge. A dealer that sells services shall be considered the end user and consumer of property used in selling, performing, or furnishing such services. However, “sale for resale” does
include the following items in the circumstances described:

(a) Repair parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the dealer’s performance of repair services, regardless of whether the dealer makes a separately stated charge for such property;

(b) Installation parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the installation of property that remains tangible personal property following such installation, regardless of whether the dealer makes a separately stated charge for such property;

(c) Mobile telephones and similar devices sold to a dealer if such property is subsequently transferred to the customer in conjunction with the sale of commercial mobile radio services (CMRS), regardless of whether the dealer makes a separately stated charge for such property; and

(d) Food or beverages sold to a hotel, motel, inn or other dealer that provides lodging accommodations if such food or beverages are subsequently transferred to the customer in conjunction with the dealer’s sale of lodging accommodations to the customer, regardless of whether the dealer makes a separately stated charge for such property;

(ii) “Sale for resale” does not include a sale of services to a dealer for use in the business of selling, leasing, or renting tangible personal property or computer software. Services used in the business of selling, leasing, or renting tangible personal property include, but are not limited to, services such as cleaning, maintaining, or repairing property that is held as inventory for sale, lease, or rental. A dealer that sells, leases, or rents tangible personal property or computer software shall be considered the end user and consumer of services used in conducting such business;

(iii) Nothing in this subdivision (75) shall be construed as amending or otherwise effecting the exemption provided in § 67-6-392;

(76) “Retail sale” or “sale at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent;

(77) “Retailer” means and includes every person engaged in the business of making sales at retail, or for distribution, use, consumption, storage to be used or consumed in this state or furnishing any of the things or services taxable under this chapter;

(78)(A) “Sale” means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, repairing or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing or serving such tangible personal property;

(B) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale; provided, that where title to property is taken by an industrial development corporation, within the meaning of title 7, chapter 53, but the property is leased to a taxpayer, the transaction shall be regarded, for purposes of this chapter, as a sale to and purchase by the
industrial development corporation followed by a lease, regardless of whether the lessee has an option to purchase any or all of the property from the industrial development corporation;

(C) “Sale” includes the furnishing of any of the things or services taxable under this chapter;

(D) “Sale” includes the sale, gifts in connection with valuable contributions, exchange or other disposition of admission, dues or fees to membership sports and recreation clubs, places of amusement or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities. Such establishments or facilities include, but are not limited to, the amusement and recreational facilities and motion picture theaters described in the standard industrial classification index prepared by the bureau of the budget of the federal government;

(E) “Sale” includes the renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis;

(F) “Sale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(G) “Sale” includes charges for admission, dues or fees that constitute a sale under this subdivision (78), except tickets for admission sold to a Tennessee dealer for resale upon presentation of a resale certificate. Dealers registered with the state for sales tax purposes may purchase tickets for resale without payment of tax upon presentation to the vendor of a valid certificate of resale;

(H) “Sale” includes all transactions that the commissioner, upon investigation, finds to be in lieu of sales;

(I) “Sale” includes a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(J) “Sale” includes a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; and

(K) “Sale” includes any transfer of title or possession, or both, lease or licensing, in any manner or by any means whatsoever of computer software for consideration, and includes the creation of computer software on the premises of the consumer and any programming, transferring or loading of computer software into a computer;

(79)(A) “Sales price” applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller’s cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the
sale, other than delivery and installation charges;
(iv) Delivery charges;
(v) Installation charges; and
(vi) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise;
(B) “Sales price” does not include:
(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;
(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;
(iv) Credit for any trade-in, as determined by § 67-6-510, that is separately stated on an invoice or similar billing document given to the purchaser;
(C) “Sales price” includes consideration received by the seller from third parties, if:
(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;
(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(iv) One of the following criteria is met:
(a) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, where the coupon, certificate or documentation is authorized, distributed or granted by a third party, with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
(b) The purchaser identifies itself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or
(c) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser, or on a coupon, certificate or other documentation presented by the purchaser;
(80) “School art supplies” means an item commonly used by a student in a course of study for artwork. For purposes of this chapter, the following is an all-inclusive list of “school art supplies”:
(A) Clay and glazes;
(B) Paintbrushes for artwork;
(C) Paints, acrylic, tempera, and oil;
(D) Sketch and drawing pads; and

(E) Watercolors;

(81) “School computer supplies” means an item commonly used by a student in a course of study in which a computer is used. For purposes of this chapter, the following is an all-inclusive list of “school computer supplies”:

(A) Computer printers;

(B) Computer storage media, diskettes, compact disks;

(C) Handheld electronic schedulers, except devices that are cellular phones;

(D) Personal digital assistants, except devices that are cellular phones; and

(E) Printer supplies for computers, printer paper, printer ink;

(82) “School instructional materials” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. For purposes of this chapter, the following is an all-inclusive list of “school instructional materials”:

(A) Reference books;

(B) Reference maps and globes;

(C) Textbooks; and

(D) Workbooks;

(83) “School supplies” means an item used by a student in a course of study. For purposes of this chapter, the following is an all-inclusive list of “school supplies”:

(A) Binders;

(B) Blackboard chalk;

(C) Book bags;

(D) Calculators;

(E) Cellophane tape;

(F) Compasses;

(G) Composition books;

(H) Crayons;

(I) Erasers;

(J) Folders, expandable, pocket, plastic and manila;

(K) Glue, paste, and paste sticks;

(L) Highlighters;

(M) Index cards;

(N) Index card boxes;

(O) Legal pads;

(P) Lunch boxes;

(Q) Markers;

(R) Notebooks;

(S) Paper, loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper;

(T) Pencil boxes and other school supply boxes;

(U) Pencil sharpeners;

(V) Pencils;

(W) Pens;

(X) Protractors;

(Y) Rulers;

(Z) Scissors; and
(AA) Writing tablets;

(84) “Service address” means the location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. In the event this may not be known, service address means the origination point of the signal of the telecommunication service first identified by either the seller’s telecommunication system or in information received by the seller from its service provider, where the system used to transport the signal is not that of the seller. In the event that neither the location of the telecommunications equipment nor the origination point of the signal are known, service address means the location of the customer’s place of primary use;

(85) “Software” means computer software;

(86) “Specified digital products” means electronically transferred digital audio-visual works, digital audio works and digital books. For purposes of this subdivision (86), “electronically transferred” means obtained by the purchaser by means other than tangible storage media;

(87) “Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use;

(88) “Storage” means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state, or for any purpose other than sale at retail in the regular course of business; provided, that temporary storage pending shipping or mailing of tangible personal property to nonresidents of Tennessee shall not constitute a taxable use in Tennessee;

(89)(A) “Tangible personal property” means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software;

(B) “Tangible personal property” does not include signals broadcast over the airwaves;

(90)(A) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. “Telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing, without regard to whether such service is referred to as voice over Internet protocol services or is classified by the federal communications commission as enhanced or value added;

(B) “Telecommunications service” does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a purchaser, where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer’s premises;

(iii) Tangible personal property;

(iv) Advertising including, but not limited to, directory advertising;
(v) Billing and collection services provided to third parties;
(vi) Internet access service;
(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service, as defined in 47 U.S.C. § 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;
(viii) Ancillary services; or
(ix) Digital products delivered electronically, including, but not limited to, computer software, music, video, reading materials or ringtones;
(91) “Textbook” means a printed book that contains systematically organized educational information that covers the primary objectives of a course of study. A textbook may contain stories and excerpts of popular fiction and nonfiction writings, but does not include a book primarily published and distributed for sale to the general public. The term “textbook” does not include a computer or computer software;
(92) “Time-share estate” means an ownership or leasehold estate in property devoted to a time-share fee, tenants in common, time span ownership, interval ownership, and a time-share lease;
(93) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;
(94)(A) “Use” means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business;
(B) “Use” means the coming to rest in Tennessee of catalogues, advertising fliers, or other advertising publications distributed to residents of Tennessee in interstate commerce; provided, that the labeling, temporary storage, and other handling in connection with mailing or shipping of the catalogues, advertising fliers and other advertising publications in interstate commerce to nonresidents of Tennessee shall not constitute a taxable use in Tennessee; and
(C) “Use” also means and includes the consumption of any of the services and amusements taxable under this chapter;
(95) “Use tax” includes the “use,” “consumption,” “distribution” and “storage” as defined in this section;
(96) “Video game digital product” means the right to access and use computer software that facilitates human interaction with a user interface to generate visual feedback for amusement purposes, when possession of the computer software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis;
(97)(A) “Video programming services” means programming provided by or generally considered comparable to programming provided by a television broadcast station and shall include cable television services sold by a provider authorized pursuant to title 7, chapter 59, wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) and video services provided through wireline facilities located at least in part in the public rights-of-way without regard to
delivery technology, including Internet protocol technology;

(B) “Video programming services” does not include any of the following:

(i) Digital products transferred electronically, including, but not limited to, software, ringtones, and reading materials such as books, magazines, and newspapers;

(ii) Audio and video programming services provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d);

(iii) Audio and video programming services provided as part of, or incidental to, Internet access service, such as, but not limited to, video capable email; provided, that the services are not generally considered comparable to programming provided by a television broadcast station; and

(iv) Direct-to-home satellite television programming services; and

(98) “Workbook” means a printed booklet that contains problems and exercises in which a student may directly write answers or responses to the problems and exercises. The term “workbook” does not include a computer or computer software.

67-6-102. Chapter definitions — Definitions applicable for taxation of charges for mobile telecommunications services. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

As used in this chapter, unless the context otherwise requires:

(1) “Advertising agency” means a business, more than eighty percent (80%) of whose gross receipts in the previous taxable year were, or in the first taxable year are reasonably projected to be, from charges for advertising services. For purposes of this definition, “gross receipts” does not include charges for printing, imprinting, reproduction, publishing of tangible personal property or photography to the extent that:

(A) The activity was not performed by the business itself but was contracted out to another business; and

(B) The charges for the activity were passed through the business to its client;

(2) “Advertising materials” means tangible personal property or its digital equivalent produced to advertise a product, service, idea, concept, issue, place or thing, including, but not limited to, brochures, catalogs and point-of-purchase materials, but not including preliminary artwork, and not including original sound recordings or video recordings produced by recording studios, television studios, video production studios or by or for advertising agencies, or masters produced from the original recordings, regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(3)(A) “Advertising services” means services rendered by an advertising agency to promote a product, service, idea, concept, issue, place or thing, including services rendered to design and produce advertising materials prior to the acceptance of the advertising materials for reproduction or publication, including, but not limited to:

(i) Advice and counseling regarding marketing and advertising;

(ii) Strategic planning for marketing and advertising;

(iii) Consumer research;
(iv) Account planning;
(v) Public relations;
(vi) Design;
(vii) Layout;
(viii) Preparation of preliminary art;
(ix) Creative consultation, coordination, media placement, direction and supervision;
(x) Script and copywriting;
(xi) Editing;
(xii) Supervision of the production of advertising materials, including quality control;
(xiii) Direct mail; and
(xiv) Account management services;
(B) “Advertising services” does not include the production of final artwork or advertising materials;
(4) “Agricultural purposes” means operating tractors or other farm equipment used exclusively, whether for hire or not, in plowing, planting, harvesting, raising or processing of farm products at a farm, nursery or greenhouse, operating farm irrigation systems, or operating motor vehicles or other logging equipment used exclusively, whether for hire or not, in cutting and harvesting trees, when the vehicles or equipment are not operated upon the public highways of this state;
(5) “Aircraft” has the same meaning used in § 42-1-101;
(6) “Alcoholic beverages” means beverages that are suitable for human consumption and contain one half of one percent (0.5%) or more of alcohol by volume;
(7) “Ancillary services” means services that are associated with, or incidental to, the provision of telecommunications services, including, but not limited to, detailed telecommunications billing service, directory assistance service, vertical service, and voice mail service. As used in this subdivision (7):
(A) “Conference bridging service” means an ancillary service that links two (2) or more participants of an audio or video conference call, and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge;
(B) “Detailed telecommunications billing service” means an ancillary service of separately stating information pertaining to individual calls on a customer’s billing statement;
(C) “Directory assistance” means an ancillary service of providing telephone number information, and address information;
(D) “Vertical service” means an ancillary service that is offered in connection with one (1) or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services; and
(E) “Voice mail service” means an ancillary service that enables the customer to store, send or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service;
(8)(A) “Bundled transaction” means the retail sale of two (2) or more
products, except real property and services to real property where:

(i) The products are otherwise distinct and identifiable; and
(ii) The products are sold for one (1) non-itemized price;

(B) A "bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

(C) "Distinct and identifiable products" does not include:

(i) Packaging, such as containers, boxes, sacks, bags, and bottles, or other materials, such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale of the products. Examples of packaging that is incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes;

(ii) A product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge;

(iii) Items included in the definition of sales price, pursuant to subdivision (81);

(D) "One non-itemized price" does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form, including, but not limited to, an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list;

(E) A transaction that otherwise meets the definition of a bundled transaction is not a bundled transaction if it is:

(i) The retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service;

(ii) The retail sale of services where one (1) service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service;

(iii) A transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis;

(a) "De minimis" means the seller's purchase price or sales price of the taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products;

(b) Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis; and

(c) Sellers shall use the full term of a service contract to determine if the taxable products are de minimis; or

(iv)(a) The retail sale of exempt tangible personal property and taxable tangible personal property, where:

(1) The transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, over-
the-counter drugs, prosthetic devices or medical supplies; and

(2) The seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property;

(b) Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction;

(9)(A) “Business” means any activity engaged in by any person, or caused to be engaged in by such person, with the object of gain, benefit, or advantage, either direct or indirect;

(B) “Business” does not include occasional and isolated sales or transactions by a person not regularly engaged in business, or the occasional and isolated sale at retail or use of services sold by or purchased from a person not regularly engaged in business as a vendor of taxable services, or from one who is such a vendor but is not normally a vendor with respect to the services sold or purchased in such occasional or isolated transaction. “Business” does not include those occasional or isolated sales or transactions by such a person involving mobile homes or house trailers, as defined by § 55-4-111, when the consummation of such exclusively involves the assumption by the purchaser of a previously existing finance contract and no other consideration is received by the seller. “Business” does not include any sales or use tax of tangible personal property of any type sold directly to consumers by any person, including, but not limited to, the Girl Scouts or county fairs; provided, however, that the tangible personal property is not regularly sold by the person or is regularly sold by the person only during a temporary sales period that occurs on a semiannual, or less frequent, basis, or, if sold by a volunteer fire department, only during a temporary sales period that occurs no more than four (4) times per calendar year. For charitable entities whose primary purpose is fundraising in support of a city, county or metropolitan library system, “business” does not include sales that the charitable entity elects to make in lieu of two semiannual temporary sales periods; provided, that the sales do not exceed one hundred thousand dollars ($100,000) per calendar year; and provided further, that the election by the charitable entity shall remain in effect for no less than four (4) years. For a community foundation described in 26 U.S.C. § 170(c)(2), “business” does not include sales that the community foundation elects to make in lieu of two (2) semiannual temporary sales periods; provided, that in any calendar year, the sales shall take place during no more than two (2) auctions, which last no more than twenty-four (24) hours, in each county designated to receive charitable support from a fund or trust that comprises a component part of the community foundation, as described in 26 CFR § 1.170A-9(f)(11)(ii);

(C) “Business” includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between corporations and their members or stockholders and also includes such transactions caused by the merger, consolidation, or reorganization of corporations. “Business” also includes occasional and isolated sales or transactions of aircraft, vessels, or motor vehicles between partnerships and the partners thereof and transfers between separate partnerships. Transfers caused by the dissolution of a partnership due solely to a partner, in a partnership composed of three (3)
or more persons, voluntarily ceasing to be associated in the carrying on of business of the partnership, as provided in § 61-1-128 [repealed], is not included in “business.” “Business” shall be construed to include occasional and isolated sales or transactions by such a person involving aircraft, vessels or motor vehicles, which terms include trailers and special motor equipment sold in conjunction therewith, as defined by and required to be registered under the laws of Tennessee with an agency of this state or under the laws of the United States with an agency of the federal government, unless such sales or transactions are otherwise exempt under this chapter or are sales between persons who are married, lineal relatives or spouses of lineal relatives, or siblings. Such sales or transactions involving aircraft based in this state shall be presumed to be made and taxable in this state; and any registration reflecting such aircraft that are so based shall constitute evidence thereof;

(10) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration;

(11) “Certified automated system” means software certified under the Streamlined Sales and Use Tax Agreement (SSUTA) to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;

(12) “Certified service provider” means an agent certified under the Streamlined Sales and Use Tax Agreement to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(13) “Clothing” means all human wearing apparel suitable for general use;

(14) “Clothing accessories or equipment” means incidental items worn on the person or in conjunction with clothing;

(15) “Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate;

(16) “Commercial air carrier” means an entity authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce;

(17) “Commissioner” means and includes the commissioner of revenue or the commissioner’s duly authorized assistants;

(18) “Common carrier” means every person holding a certificate of public convenience and necessity as a common carrier from the interstate commerce commission or the United States department of transportation or its predecessor agency of the federal government;

(19) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions;

(20) “Computer software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task;

(21) “Computer software maintenance contract” means a contract that obligates a person to provide a customer with future updates or upgrades to computer software, support services with respect to computer software, or both. However, “computer software maintenance contract” does not include
telephone or other support services that are optional and are sold separately and invoiced separately and do not include any transfer, repair or maintenance of computer software on the part of the seller;

(22) “Construction machinery” means machinery designed for and used exclusively in the preparation for, assembly, fabrication, and finishing of permanent improvements to real estate;

(23) “Cost price” means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever;

(24) “Data center” means a building or buildings, either newly constructed, expanded, or remodeled, housing high-tech computer systems and related equipment;

(25) “Dealer” means every person, as used in this chapter, including Model 1, Model 2, and Model 3 sellers, where the context requires, who:

(A) Manufactures or produces tangible personal property for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(B) Imports, or causes to be imported, tangible personal property from any state or foreign country, for sale at retail, for use, consumption, distribution, or for storage to be used or consumed in this state;

(C) Sells at retail, or who offers for sale at retail, or who has in such person's possession for sale at retail, or for use, consumption, distribution, or for storage to be used or consumed in this state, tangible personal property as defined in this section;

(D) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of the tangible personal property;

(E) Leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of the property without transferring title to such property;

(F) Is the lessee or renter of tangible personal property, as defined in this chapter, and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title to such property;

(G) Maintains or has within this state, directly or by a subsidiary, an office, distributing house, sales room or house, warehouse, or other place of business;

(H) Furnishes any of the things or services taxable under this chapter;

(I) Has any representative, agent, salesperson, canvasser or solicitor operating in this state, or any person who serves in such capacity, for the purpose of making sales or the taking of orders for sales, regardless of whether such representative, agent, salesperson, canvasser or solicitor is located here permanently or temporarily, and regardless of whether an established place of business is maintained in this state;

(J) Engages in the regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system;
(K) Uses tangible personal property, whether the title to such property is in such person or some other entity, and whether or not such other entity is required to pay a sales or use tax, in the performance of such person’s contract or to fulfill such person’s contract obligations, unless such property has previously been subjected to a sales or use tax, and the tax due thereon has been paid;

(L) Sells at retail or charges admission, dues or fees as defined in this chapter; or

(M) Rents or provides space to a dealer without a permanent location in this state or to dealers who are registered for sales tax at other locations in this state, but who are making sales at this location on a less than permanent basis; provided, that “dealer” does not include flea market operators;

(26) “Delivered electronically” means delivered to the purchaser by means other than tangible storage media;

(27)(A) “Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Delivery charges shall not include delivery for direct mail when the charges are separately stated on an invoice or similar billing document given to the purchaser. If the shipment includes exempt property and taxable property, the seller should allocate the delivery charge by using:
   (i) A percentage based on the total sales price of the taxable property compared to the sales prices of all property in the shipment; or
   (ii) A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment;

(B) The seller shall tax the percentage of the delivery charge allocated to the taxable property but does not have to tax the percentage allocated to the exempt property;

(28) “Dietary supplement” means any product, other than tobacco, intended to supplement the diet that:

(A) Contains one (1) or more of the following dietary ingredients:
   (i) A vitamin;
   (ii) A mineral;
   (iii) An herb or other botanical;
   (iv) An amino acid;
   (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
   (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in subdivisions (28)(A)(i)-(v);

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to 21 CFR 101.36;

(29) “Digital audio works” means works that result from the fixation of a series of musical, spoken, or other sounds, that are transferred electronically, including prerecorded or livesongs, music, readings of books or other written
materials, speeches, ringtones, or other sound recording. For purposes of this subdivision (29), “ringtones” means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication. “Digital audio works” does not include audio greeting cards sent by electronic mail;

(30) “Digital audio-visual works” means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, that are transferred electronically. “Digital audio-visual works” includes motion pictures, musical videos, news and entertainment programs, and live events. “Digital audio-visual works” does not include video greeting cards sent by electronic mail or video or electronic games;

(31) “Digital books” means works that are generally recognized in the ordinary and usual sense as “books” that are transferred electronically, including works of fiction and nonfiction and short stories. “Digital books” does not include newspapers, magazines, periodicals, chat room discussions or weblogs;

(32) “Direct mail” means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. “Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address;

(33) “Direct pay permit” means special written permission granted to a taxpayer by the commissioner to make all purchases free of the sales or use tax and report all sales or use tax due directly to the department;

(34) “Direct pay permit holder” means a taxpayer who holds a direct pay permit;

(35) “Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than food and food ingredients, dietary supplements or alcoholic beverages:

(A) Recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(C) Intended to affect the structure or any function of the body;

(36)(A) “Durable medical equipment” means equipment that:

(i) Can withstand repeated use;

(ii) Is primarily and customarily used to serve a medical purpose;

(iii) Generally is not useful to a person in the absence of illness or injury; and

(iv) Is not worn in or on the body;

(B) “Durable medical equipment” includes repair and replacement parts for the equipment; provided, however, that the repair and replacement parts shall not include parts, components, or attachments that are for single patient use. “Durable medical equipment” does not include mobility enhancing equipment;

(37) “Electronic” means relating to technology having electrical, digital,
magnetic, wireless, optical, electromagnetic, or similar capabilities;

(38) “Energy resource recovery facility” means a facility for the production of energy in the form of steam or chilled water from the controlled burning of combustible materials, including, but not limited to, coal, fuel oil, or natural gas, where such energy is to be used in a system for heating and cooling five (5) or more separate buildings;

(39) “Fabricating or processing tangible personal property for resale” means only tangible personal property that is fabricated or processed for resale and ultimate use or consumption off the premises of the one engaging in such fabricating or processing, or hot mix asphalt and crushed stone fabricated by a contractor for use by the contractor in highway or road construction projects funded by tax revenues. “Fabricating or processing tangible personal property for resale” shall be deemed to include providing fabrication and repair services to aircraft owned by nonaffiliated business entities whether commercial, governmental or foreign; provided, that the dealer performing such services qualifies for the credit allowed in § 67-4-2109(b). “Fabricating or processing tangible personal property for resale” shall not include any other type of repair services. “Fabricating or processing tangible personal property for resale” includes the processing of photographic film into negatives and/or photographic prints for resale;

(40) “Final artwork” means tangible personal property or its digital equivalent that is suitable for use in producing advertising materials and includes, but is not limited to, photographs, illustrations, drawings, paintings, calligraphy, models and similar works that are used to produce advertising materials, but does not include preliminary artwork or original sound recordings or video recordings produced by recording studios, television studios, video production studios, or by or for advertising agencies, or masters produced from the original recordings regardless of whether the original recordings or masters are produced in a tangible medium or a digital equivalent;

(41) “Flea market” means a place of business that provides space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market” does not include hotels, convention centers, municipal auditoriums, municipal coliseums, or gun shows, if such gun shows are sponsored by a not-for-profit corporation;

(42) “Flea market operator” means any person who receives compensation for providing space more than two (2) times a year to two (2) or more persons for the purpose of making sales at retail of tangible personal property that, during the usual course of being displayed or offered for sale, is not stored or displayed permanently at that space. “Flea market operator” does not include a hotel, convention center, municipal auditorium, municipal coliseum, or gun show operator, if such gun shows are sponsored by a not-for-profit corporation;

(43) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, candy, dietary supplements, or prepared food;
(44) "Grooming and hygiene products" are soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the items meet the definition of over-the-counter drugs;

(45) "Gross sales" means the sum total of all retail sales of tangible personal property and all proceeds of services taxable under this chapter as defined in this section, without any deduction whatsoever of any kind or character, except as provided in this chapter;

(46) “Industrial machinery” means:

(A)(i) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabrication or processing of tangible personal property for resale and consumption off the premises, or pollution control facilities primarily used for air pollution control or water pollution control, where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one’s principal business or who engages in the fabrication or processing of materials into trusses, window units or door units for resale as part of the principal business of the sale of building supplies either within or without this state, or such use by a county, municipality, or water and wastewater treatment authority created by private act or pursuant to the Water and Wastewater Treatment Authority Act, compiled in title 68, chapter 221, part 6, or a contractor pursuant to a contract with the county, municipality, or water and wastewater treatment authority for use in water pollution control or sewage systems, also mining machinery, apparatus equipment and materials, with all associated parts and accessories, including repair parts and any necessary repair or installation labor, that is necessary to and primarily for:

(a) The removal, extraction or detachment of coal from land by surface, underground or other lawful methods of mining and the construction or maintenance of necessary ingress and egress from the mine;

(b) The removal, handling and replacement of overburden and spoils materials; or

(c) The reclamation of mined areas reclaimed under state or federal laws, rules or regulations;

(ii) As used in this chapter, “pollution control facilities” means any system, method, improvement, structure, device or appliance appurtenant thereto used or intended for the primary purpose of eliminating, preventing or reducing air or water pollution, or for the primary purpose of treating, pretreating, recycling or disposing of any hazardous or toxic waste, solid or liquid, when such pollutants are created as a result of fabricating or processing by one who engages in fabricating or processing as such person’s principal business activity, which, if released without such treatment, pretreatment, modification or disposal, might be harmful, detrimental or offensive to the public and the public interest;

(B) Machinery that is necessary to and primarily for remanufacturing industrial machinery as defined in subdivision (46)(A) when such utilization is by one whose principal business is that of remanufacturing
industrial machinery. For the purposes of this subdivision (46)(B), “re-manufacturing” means making new or different products with new or different functions from the scrap materials used to make them;

(C) Machinery utilized in the pre-press and press operations in the business of printing, including plates and cylinders, and including the component parts and fluids or chemicals necessary for the specific mechanical or chemical actions or operations of such machinery, plates and cylinders, regardless of whether or not the operations occur at the point of retail sales;

(D) Such industrial machinery necessary to and primarily for the fabrication and processing of tangible personal property for resale or used primarily for the control of air pollution or water pollution includes, but is not limited to:

(i) Machines used for generating, producing, and distributing utility services, electricity, steam, and treated or untreated water; and

(ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the end of the manufacturing process to storage;

(E)(i) Machinery used to package manufactured items, where the use of such machinery is by a person whose principal business is fabricating or processing tangible personal property for resale. Notwithstanding the principal business of the user, this exemption shall also apply where the use of such machinery at a location is to package automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(a) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(b) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent;

(ii) To “package,” as used in subdivision (46)(E)(i), refers only to the fabrication and/or installation of that packaging that will accompany the product when sold at retail;

(F) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale and consumption off the premises or used primarily for the control of air pollution or water pollution does not include machinery, apparatus and equipment used prior to or after equipment exempted by subdivision (46)(D)(ii), and does not include equipment used for maintenance or the convenience or comfort of workers;

(G) Machinery, apparatus and equipment with all associated parts, appurtenances and accessories, including hydraulic fluids, lubricating oils and greases necessary for operation and maintenance, repair parts and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the fabricating or processing of prescription eyewear, where a majority of such eyewear is ultimately dispensed to patients in states other than Tennessee;

(H)(i) Material handling equipment and racking systems, used by the taxpayer, directly and primarily for the storage or handling and movement of tangible personal property in a qualified, new or expanded warehouse or distribution facility, that are purchased beginning one (1) year prior to the start of the construction or expansion and ending one (1)
year after the substantial completion of the construction or expansion of the facility, but in no event shall the period exceed three (3) years. “Qualified, new or expanded warehouse or distribution facility” means a new or expanded facility, that meets the requirements set out in this subdivision (46)(H), for the storage or distribution of finished tangible personal property. Such facilities shall not include a building where tangible personal property is fabricated, processed, assembled or sold over-the-counter to consumers, except for taxpayers that qualify under the provisions of chapter 185 of the Public Acts of 1995, or are configuring, testing or packaging computer products. “Configuring” computer products means integrating a computer with peripheral computer products, such as a hard disk drive, additional memory or software. A qualifying facility must also be:

(a) A warehouse or distribution facility constructed in this state through an investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, in a newly constructed and previously unoccupied building and/or equipment for the facility;

(b) An expansion to an existing warehouse or distribution facility, previously qualified under subdivision (46)(H)(i), through an additional investment in excess of ten million dollars ($10,000,000) by the taxpayer, and/or a lessor to the taxpayer over an additional period not exceeding three (3) years, for additions to the building and the purchase of new equipment for use in the expanded facility;

(c) A warehouse or distribution facility in this state that is purchased and either renovated or expanded through an investment in excess of ten million dollars ($10,000,000) in such purchase and renovation or expansion by the taxpayer, and/or a lessor to the taxpayer, including the purchase of new equipment for such a building, over a period not exceeding three (3) years; or

(d) An expansion to an existing warehouse or distribution facility in this state through an aggregate investment in excess of twenty million dollars ($20,000,000) by the taxpayer, and/or a lessor to the taxpayer, over a period not exceeding three (3) years, consisting of an investment in excess of ten million dollars ($10,000,000) in the renovation or expansion of an existing building and/or the purchase of new equipment for such a building, together with an investment in excess of ten million dollars ($10,000,000) in the construction of a new, previously unoccupied building and/or equipment for such a building;

(ii) A taxpayer shall qualify for the exemption afforded to material handling and racking systems under subdivision (46)(H)(i) by submitting an application to the commissioner for the exemption, together with a plan describing the investment to be made. The application and plan shall be submitted on forms prescribed by the commissioner. The plan shall demonstrate that the requirements of the law will be met. Upon approval of the exemption request and plan for investment, purchases of the equipment may be made without payment of the sales or use tax. However, if the requisite investment is not made in the time period required, or the terms of the statute are not met, the taxpayer shall be subject to assessment for any tax, penalty or interest that would otherwise have been due;
(I) Material handling equipment and racking systems used in a warehouse and distribution facility, subject to all the requirements and conditions of subdivision (46)(H), except:

(i) The required investment in excess of ten million dollars ($10,000,000) may also be made in a previously occupied facility:

(a) Through the purchase of a building, and/or the purchase of new equipment for use in the building no later than one (1) year after the purchase of the building; or

(b) Through the purchase of new equipment for use in a leased building, not qualifying under subdivision (46)(I)(i)(a), made no later than one (1) year after the date of the lease agreement; and

(ii) Any purchases exempted from tax for use in the facility described in this subdivision (46)(I) must be made no later than one (1) year after the purchase of the building under subdivision (46)(I)(i)(a), or no later than one (1) year after the date of the lease agreement under subdivision (46)(I)(i)(b);

(J) “Industrial machinery” does not include machinery, apparatus and equipment, with all associated parts, appurtenances, accessories, repair parts, and necessary repair or taxable installation labor therefor, that is used in the preparation of food for immediate retail sale;

(K) “Industrial machinery” also includes any “computer”, “computer network”, “computer software”, or “computer system”, as defined by § 39-14-601, and any peripheral devices, including, but not limited to, hardware such as printers, plotters, external disc drives, modems, and telephone units, when such items are used in the operation of a qualified data center. For purposes of this subdivision (46)(K), “industrial machinery” includes repair parts, repair or installation services, and warranty or service contracts, purchased for such items used in the operation of a qualified data center;

(L) “Industrial machinery” includes machinery, apparatus and equipment with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is necessary to and used primarily for the conversion of tangible personal property into taxable specified digital products for resale and consumption off the premises. “Industrial machinery” does not include machinery, apparatus or equipment, with all associated parts, appurtenances, accessories, repair parts and necessary repair or taxable installation labor therefor, that is used primarily for the storage or distribution of such specified digital products following such conversion; and

(M) [Deleted by 2015 amendment, effective April 24, 2015.]

(N) [Expired effective December 31, 2016.]

(O) “Industrial machinery” also includes machinery, apparatus, and equipment with all associated parts, appurtenances, and accessories, including hydraulic fluids, lubricating oils, and greases necessary for operation and maintenance, repair parts, and any necessary repair or taxable installation labor therefor, that is necessary to, and primarily for, the purpose of research and development;

(47) “International,” as used in connection with telecommunications services, means a telecommunications service that originates or terminates in the United States, and terminates or originates outside the United States, respectively. United States includes the District of Columbia and a United
States territory or possession;

(48) “Interstate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession;

(49) “Intrastate,” as used in connection with telecommunications services, means a telecommunications service that originates in one (1) United States state or United States territory or possession, and terminates in the same United States state or United States territory or possession;

(50) “Layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the purchase price over a period of time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller, when the seller removes the property from normal inventory or clearly identifies the property as sold to the purchaser;

(51) “Lease or rental” means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A “lease or rental” may include future options to purchase or extend;

(A) “Lease or rental” does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision (51), an operator must do more than maintain, inspect, or set-up the tangible personal property;

(B) “Lease or rental” includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1);

(C) This subdivision (51) shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, compiled in 26 U.S.C., or title 47, chapter 2A, or other federal, state or local law;

(D) This subdivision (51) shall be applied only prospectively from the date of adoption [January 1, 2008] and shall have no retroactive impact on existing leases or rentals;

(52) “Livestock and poultry feed” means and includes all grains, minerals, salts, proteins, fats, fibers and all vitamins, acids and drugs used and mixed with such ingredients as a growth stimulant, disease preventive, to stimulate feed conversion and make a complete feed;

(53) “Local tax jurisdiction” means a geographic area where the same local option tax, either county tax or a combination of county and municipal tax, applies;
(54) “Mobile telecommunications service” means the same as that term is defined in the Mobile Telecommunications Sourcing Act, Public Law 106-252, codified in 4 U.S.C. § 124(7);

(55) “Mobility enhancing equipment” means equipment, including repair and replacement parts to the equipment, but does not include durable medical equipment that:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer;

(56) “Model 1 seller” means a seller that has selected a certified service provider as its agent to perform all of the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on its own purchases;

(57) “Model 2 seller” means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax;

(58) “Model 3 seller” means a seller that has sales in at least five (5) states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least five hundred million dollars ($500,000,000), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subdivision (58), a seller includes an affiliated group of sellers using the same proprietary system;

(59) “OEM headquarters company” means an original equipment manufacturer that is engaged in the business of manufacturing motor vehicles and qualifies to receive the credit provided in § 67-6-224, or any affiliate thereof. For purposes of this subdivision (59), “affiliate” has the same meaning as provided in § 67-4-2004;

(60) “OEM headquarters company vehicle” means any motor vehicle subject to registration in accordance with title 55 that is owned by an OEM headquarters company, whether used for sales or service training, advertising, quality control, testing, evaluation or such other uses as approved by the commissioner; and, further, including motor vehicles provided by the OEM headquarters company for use by eligible employees and their eligible family members in accordance with policies established by the OEM headquarters company and approved by the commissioner;

(61)(A) “Over-the-counter-drug” means a drug that contains a label that identifies the product as a drug as required by 21 CFR 201.66. The “over-the-counter-drug” label includes:

(i) A drug facts panel; or

(ii) A statement of the active ingredients, with a list of those ingredients contained in the compound, substance or preparation;

(B) “Over-the-counter-drug” does not include grooming and hygiene products;

(62) “Permanent location” does not include any booths or space located at a flea market, antique mall, craft show, antique show, gun show, auto show or any similar type business;

(63) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, any
governmental agency whose services are essentially a private commercial concern, or other group or combination acting as a unit, in the plural as well as the singular number. “Person” further includes any political subdivision or governmental agency, including electric membership corporations or cooperatives, and utility districts, to the extent that such agency sells at retail, rents or furnishes any of the things or services taxable under this chapter;

(64) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications service, “place of primary use” shall be within the licensed service area of the home service provider;

(65) “Preliminary artwork” means tangible personal property and digital equivalents that are produced by an advertising agency in the course of providing advertising services solely for the purpose of conveying concepts or ideas or demonstrating an idea or message to a client and includes, but is not limited to concept sketches, illustrations, drawings, paintings, models, photographs, storyboards or similar materials;

(66) “Prepaid calling service” means the right to access exclusively telecommunications services that must be paid for in advance and that enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(67) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service, as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services that must be paid for in advance that is sold in predetermined units of dollars of which the number declines with use in a known amount;

(68)(A) “Prepared food” means:

(i) Food sold in a heated state or heated by the seller;

(ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food;

(B) “Prepared food” in subdivision (68)(A)(ii) does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration (FDA) in chapter 3, § 401.11 of the FDA’s food code so as to prevent food borne illnesses;

(69) “Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state;

(70) “Prewritten computer software” means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two (2) or more prewritten computer software programs or prewritten portions of computer software does not cause the combination to be other than prewritten computer software. “Prewritten computer software” includes soft-
ware designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of that person's modifications or enhancements. “Prewritten computer software” or a prewritten portion of the computer software that is modified or enhanced to any degree, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software;

(71) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels;

(72)(A) “Prosthetic device” means a replacement, corrective, or supportive device including repair and replacement parts for the replacement, corrective, or supportive device worn on or in the body to:

(i) Artificially replace a missing portion of the body;
(ii) Prevent or correct physical deformity or malfunction; or
(iii) Support a weak or deformed portion of the body;

(B) “Prosthetic device” does not include:

(i) Corrective eyeglasses; or
(ii) Contact lenses;

(73) “Protective equipment” means items for human wear, designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property, but not suitable for general use;

(74) “Purchase price” applies to the measure subject to use tax and has the same meaning as sales price;

(75) “Qualified data center” means a data center that has made a required capital investment in excess of one hundred million dollars ($100,000,000) during an investment period not to exceed three (3) years and that creates at least fifteen (15) net new full-time employee jobs during the investment period paying at least one hundred fifty percent (150%) of the states' average occupational wage as defined in § 67-4-2004. For purposes of this subdivision (75), “required capital investment” means an increase of a business investment in real property, tangible personal property or computer software owned or leased in the state, valued in accordance with generally accepted accounting principles. A capital investment shall be deemed to have been made as of the date of payment or the date the taxpayer enters into a legally binding commitment or contract for purchase or construction. For purposes of this subdivision (75), “full-time employee job” means a permanent, rather than seasonal or part-time employment position for at least twelve (12) consecutive months to a person for at least thirty-seven and one half (37 ½) hours per week with minimum health care, as described in title 56, chapter 7, part 22. The three-year period for making the required capital investment
provided for in this subdivision (75) may be extended by the commissioner of economic and community development for a reasonable period, not to exceed four (4) years, for good cause shown. For purposes of this subdivision (75), “good cause” means a determination by the commissioner of economic and community development that the capital investment is a result of the exemption for industrial machinery used by a qualified data center;

(76) “Rain check” means the seller allows a customer to purchase an item at a certain price at a later time, because the particular item was out of stock;

(77)(A) “Resale” means a subsequent, bona fide sale of the property, services, or taxable item by the purchaser. “Sale for resale” means the sale of the property, services, or taxable item intended for subsequent resale by the purchaser. Any sales for resale shall, however, be in strict compliance with rules and regulations promulgated by the commissioner. Sales of tangible personal property or taxable services made by a dealer to an out-of-state vendor who directs that a dealer act as the out-of-state vendor’s agent to deliver or ship tangible personal property or taxable services to the out-of-state vendor’s customer, who is a user or consumer, are sales for resale;

(B)(i) “Sale for resale” does not include a sale of tangible personal property or software to a dealer for use in the business of selling services. Property used in the business of selling services includes, but is not limited to, property that is regularly furnished to purchasers of the service without separate charge. A dealer that sells services shall be considered the end user and consumer of property used in selling, performing, or furnishing such services. However, “sale for resale” does include the following items in the circumstances described:

(a) Repair parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the dealer’s performance of repair services, regardless of whether the dealer makes a separately stated charge for such property;

(b) Installation parts or other property sold to a dealer if such property is subsequently transferred to the customer in conjunction with the installation of property that remains tangible personal property following such installation, regardless of whether the dealer makes a separately stated charge for such property;

(c) Mobile telephones and similar devices sold to a dealer if such property is subsequently transferred to the customer in conjunction with the sale of commercial mobile radio services (CMRS), regardless of whether the dealer makes a separately stated charge for such property; and

(d) Food or beverages sold to a hotel, motel, inn or other dealer that provides lodging accommodations if such food or beverages are subsequently transferred to the customer in conjunction with the dealer’s sale of lodging accommodations to the customer, regardless of whether the dealer makes a separately stated charge for such property;

(ii) “Sale for resale” does not include a sale of services to a dealer for use in the business of selling, leasing, or renting tangible personal property or computer software. Services used in the business of selling, leasing, or renting tangible personal property include, but are not limited to, services such as cleaning, maintaining, or repairing property that is...
held as inventory for sale, lease, or rental. A dealer that sells, leases, or
rents tangible personal property or computer software shall be consid-
ered the end user and consumer of services used in conducting such
business;

(iii) Nothing in this subdivision (77) shall be construed as amending
or otherwise effecting the exemption provided in § 67-6-392;

(78) “Retail sale” or “sale at retail” means any sale, lease, or rental for any
purpose other than for resale, sublease, or subrent;

(79) “Retailer” means and includes every person engaged in the business of
making sales at retail, or for distribution, use, consumption, storage to be
used or consumed in this state or furnishing any of the things or services
taxable under this chapter;

(80)(A) “Sale” means any transfer of title or possession, or both, exchange,
barter, lease or rental, conditional or otherwise, in any manner or by any
means whatsoever of tangible personal property for a consideration, and
includes the fabrication of tangible personal property for consumers who
furnish, either directly or indirectly, the materials used in fabrication work,
and the furnishing, repairing or serving for a consideration of any tangible
personal property consumed on the premises of the person furnishing,
preparing or serving such tangible personal property;

(B) A transaction whereby the possession of property is transferred but
the seller retains title as security for the payment of the price shall be
deemed a sale; provided, that where title to property is taken by an
industrial development corporation, within the meaning of title 7, chapter
53, but the property is leased to a taxpayer, the transaction shall be
regarded, for purposes of this chapter, as a sale to and purchase by the
industrial development corporation followed by a lease, regardless of
whether the lessee has an option to purchase any or all of the property from
the industrial development corporation;

(C) “Sale” includes the furnishing of any of the things or services taxable
under this chapter;

(D) “Sale” includes the sale, gifts in connection with valuable contribu-
tions, exchange or other disposition of admission, dues or fees to member-
ship sports and recreation clubs, places of amusement or recreational or
athletic events or for the privilege of having access to or the use of
amusement, recreational, athletic or entertainment facilities. Such estab-
lishments or facilities include, but are not limited to, the amusement and
recreational facilities and motion picture theaters described in the stan-
dard industrial classification index prepared by the bureau of the budget of
the federal government;

(E) “Sale” includes the renting or providing of space to a dealer or vendor
without a permanent location in this state or to persons who are registered
for sales tax at other locations in this state but who are making sales at this
location on a less than permanent basis;

(F) “Sale” includes the processing of photographic film into negatives
and/or photographic prints for resale;

(G) “Sale” includes charges for admission, dues or fees that constitute a
sale under this subdivision (80), except tickets for admission sold to a
Tennessee dealer for resale upon presentation of a resale certificate. Dealers
registered with the state for sales tax purposes may purchase tickets for
resale without payment of tax upon presentation to the vendor of a valid
certificate of resale;

(H) “Sale” includes all transactions that the commissioner, upon investi-
gation, finds to be in lieu of sales;

(I) “Sale” includes a transfer of possession or control of property under a
security agreement or deferred payment plan that requires the transfer of
title upon completion of the required payments;

(J) “Sale” includes a transfer of possession or control of property under
an agreement that requires the transfer of title upon completion of required
payments and payment of an option price that does not exceed the greater
of one hundred dollars ($100) or one percent (1%) of the total required
payments; and

(K) “Sale” includes any transfer of title or possession, or both, lease or
licensing, in any manner or by any means whatsoever of computer software
for consideration, and includes the creation of computer software on the
premises of the consumer and any programming, transferring or loading of
computer software into a computer;

(81)(A) “Sales price” applies to the measure subject to sales tax and means
the total amount of consideration, including cash, credit, property, and
services, for which personal property or services are sold, leased, or rented,
valued in money, whether received in money or otherwise, without any
deduction for the following:

(i) The seller’s cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all
costs of transportation to the seller, all taxes imposed on the seller, and
any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the
sale, other than delivery and installation charges;

(iv) Delivery charges;

(v) Installation charges; and

(vi) The value of exempt personal property given to the purchaser
where taxable and exempt personal property have been bundled together
and sold by the seller as a single product or piece of merchandise;

(B) “Sales price” does not include:

(i) Discounts, including cash, term, or coupons that are not reim-
bursed by a third party that are allowed by a seller and taken by a
purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on
the sale of personal property or services, if the amount is separately
stated on the invoice, bill of sale or similar document given to the
purchaser;

(iii) Any taxes legally imposed directly on the consumer that are
separately stated on the invoice, bill of sale or similar document given to
the purchaser; and

(iv) Credit for any trade-in, as determined by § 67-6-510, that is
separately stated on an invoice or similar billing document given to the
purchaser;

(C) “Sales price” includes consideration received by the seller from third
parties, if:

(i) The seller actually receives consideration from a party other than
the purchaser, and the consideration is directly related to a price
reduction or discount on the sale;
(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;
(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
(iv) One of the following criteria is met:
    (a) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, where the coupon, certificate or documentation is authorized, distributed or granted by a third party, with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
    (b) The purchaser identifies itself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or
    (c) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser, or on a coupon, certificate or other documentation presented by the purchaser;
82) “School art supplies” means an item commonly used by a student in a course of study for artwork. For purposes of this chapter, the following is an all-inclusive list of “school art supplies”:
(A) Clay and glazes;
(B) Paintbrushes for artwork;
(C) Paints, acrylic, tempera, and oil;
(D) Sketch and drawing pads; and
(E) Watercolors;
83) “School computer supplies” means an item commonly used by a student in a course of study in which a computer is used. For purposes of this chapter, the following is an all-inclusive list of “school computer supplies”:
(A) Computer printers;
(B) Computer storage media, diskettes, compact disks;
(C) Handheld electronic schedulers, except devices that are cellular phones;
(D) Personal digital assistants, except devices that are cellular phones; and
(E) Printer supplies for computers, printer paper, printer ink;
84) “School instructional materials” means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. For purposes of this chapter, the following is an all-inclusive list of “school instructional materials”:
(A) Reference books;
(B) Reference maps and globes;
(C) Textbooks; and
(D) Workbooks;
85) “School supplies” means an item used by a student in a course of study. For purposes of this chapter, the following is an all-inclusive list of “school supplies”:
(A) Binders;
(B) Blackboard chalk;
(C) Book bags;
(D) Calculators;
(E) Cellophane tape;
(F) Compasses;
(G) Composition books;
(H) Crayons;
(I) Erasers;
(J) Folders, expandable, pocket, plastic and manila;
(K) Glue, paste, and paste sticks;
(L) Highlighters;
(M) Index cards;
(N) Index card boxes;
(O) Legal pads;
(P) Lunch boxes;
(Q) Markers;
(R) Notebooks;
(S) Paper, loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper;
(T) Pencil boxes and other school supply boxes;
(U) Pencil sharpeners;
(V) Pencils;
(W) Pens;
(X) Protractors;
(Y) Rulers;
(Z) Scissors; and
(AA) Writing tablets;

(86) “Service address” means the location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid. In the event this may not be known, service address means the origination point of the signal of the telecommunication service first identified by either the seller’s telecommunication system or in information received by the seller from its service provider, where the system used to transport the signal is not that of the seller. In the event that neither the location of the telecommunications equipment nor the origination point of the signal are known, service address means the location of the customer’s place of primary use;

(87) “Software” means computer software;

(88) “Specified digital products” means electronically transferred digital audio-visual works, digital audio works and digital books. For purposes of this subdivision (88), “electronically transferred” means obtained by the purchaser by means other than tangible storage media;

(89) “Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use;

(90) “Storage” means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state, or for any purpose other than sale at retail in the regular course of business; provided, that temporary storage pending shipping or mailing of tangible personal property to nonresidents of Tennessee shall not constitute a taxable use in Tennessee;
“Tangible personal property” means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. “Tangible personal property” includes electricity, water, gas, steam, and prewritten computer software;

(B) “Tangible personal property” does not include signals broadcast over the airwaves;

(92)(A) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. “Telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing, without regard to whether such service is referred to as voice over Internet protocol services or is classified by the federal communications commission as enhanced or value added;

(B) “Telecommunications service” does not include:

(i) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by electronic transmission to a purchaser, where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(ii) Installation or maintenance of wiring or equipment on a customer’s premises;

(iii) Tangible personal property;

(iv) Advertising including, but not limited to, directory advertising;

(v) Billing and collection services provided to third parties;

(vi) Internet access service;

(vii) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service, as defined in 47 U.S.C. § 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

(viii) Ancillary services; or

(ix) Digital products delivered electronically, including, but not limited to, computer software, music, video, reading materials or ringtones;

(93) “Textbook” means a printed book that contains systematically organized educational information that covers the primary objectives of a course of study. A textbook may contain stories and excerpts of popular fiction and nonfiction writings, but does not include a book primarily published and distributed for sale to the general public. The term “textbook” does not include a computer or computer software;

(94) “Time-share estate” means an ownership or leasehold estate in property devoted to a time-share fee, tenants in common, time span ownership, interval ownership, and a time-share lease;

(95) “Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;

(96)(A) “Use” means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of
(B) “Use” means the coming to rest in Tennessee of catalogues, advertising fliers, or other advertising publications distributed to residents of Tennessee in interstate commerce; provided, that the labeling, temporary storage, and other handling in connection with mailing or shipping of the catalogues, advertising fliers and other advertising publications in interstate commerce to nonresidents of Tennessee shall not constitute a taxable use in Tennessee; and

(C) “Use” also means and includes the consumption of any of the services and amusements taxable under this chapter;

(97) “Use tax” includes the “use,” “consumption,” “distribution” and “storage” as defined in this section;

(98) “Video game digital product” means the right to access and use computer software that facilitates human interaction with a user interface to generate visual feedback for amusement purposes, when possession of the computer software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis;

(99)(A) “Video programming services” means programming provided by or generally considered comparable to programming provided by a television broadcast station and shall include cable television services sold by a provider authorized pursuant to title 7, chapter 59, wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) and video services provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology;

(B) “Video programming services” does not include any of the following:

(i) Digital products transferred electronically, including, but not limited to, software, ringtones, and reading materials such as books, magazines, and newspapers;

(ii) Audio and video programming services provided by a commercial mobile service provider as defined in 47 U.S.C. § 332(d);

(iii) Audio and video programming services provided as part of, or incidental to, Internet access service, such as, but not limited to, video capable email; provided, that the services are not generally considered comparable to programming provided by a television broadcast station; and

(iv) Direct-to-home satellite television programming services; and

(100) “Workbook” means a printed booklet that contains problems and exercises in which a student may directly write answers or responses to the problems and exercises. The term “workbook” does not include a computer or computer software.

67-6-103. Deposit and allocation of receipts — Transportation equity trust fund — Other special allocations. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) The commissioner shall deposit promptly to the credit of the state treasurer in state depositories all moneys received by the commissioner under this chapter, and all such moneys shall be earmarked and allocated as follows:

(1) Twenty-nine and one hundred forty-one ten-thousandths percent (29.0141%) of such moneys shall be earmarked and allocated specifically and
(2) Sixty-five and nine hundred seventy ten-thousandths (65.0970\%) of such moneys shall be earmarked and allocated specifically and exclusively to educational purposes; and

(3)(A) Four and six thousand thirty ten-thousandths percent (4.6030\%) shall be appropriated to the several incorporated municipalities within the state of Tennessee to be allocated and distributed to them monthly by the commissioner of finance and administration, in the proportion as the population of each municipality bears to the aggregate population of all municipalities within the state, according to the latest federal census and other censuses authorized by law. Municipalities incorporated subsequent to the last decennial federal census shall, until the next decennial federal census, be eligible for an allotment, commencing on July 1, following incorporation, election and installation of officials, on the population basis determined under regulations of the department of economic and community development and certified by that office to the commissioner; provided, that an accurate census of population has been certified to the department of economic and community development by the municipality. Municipalities now participating in allocation shall continue to do so on the basis of their population determined according to law;

(B)(i) A municipality having a population of one thousand one hundred (1,100) or more persons, according to the 1970 federal census or any subsequent federal census, in which at least forty percent (40\%) of the assessed valuation, as shown by the tax assessment rolls or books of the municipality, of the real estate in the municipality consists of hotels, motels, tourist courts accommodation, tourist shops and restaurants, is defined as a “premier type tourist resort” for purposes of this chapter. As an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a premier type tourist resort may elect to receive four and six thousand thirty ten-thousandths percent (4.6030\%) of the tax actually collected and remitted by dealers within the boundaries of such resort. Any distribution made to a premier type tourist resort pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a premier type tourist resort pursuant to the election, the amount that would have been received by such resort had the resort not exercised the election shall be earmarked and allocated to the general fund;

(ii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also owning a golf course and ski slope shall also receive an amount equal to the amount distributed pursuant to subdivision (a)(3)(B)(i). Any distribution made to such a municipality shall be earmarked and paid from the general fund for the purpose of assisting in the retirement of the convention center obligations in connection with the acquisition, construction and operation of the convention center;

(iii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also containing within its boundaries a theme park of not less than eighty (80) acres shall also receive an amount equal to the distribution pursuant to subdivision (a)(3)(B)(i);

(ii)(a) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(ii) shall also receive in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to
fifty-six percent (56%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(ii), and an amount equal to ninety percent (90%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(b) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(iii) shall also receive, in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to sixty percent (60%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(iii), and an amount equal to ninety-six percent (96%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(v)a) The collective amounts paid under subdivisions (a)(3)(B)(i)-(iv)
shall be limited to the collective amounts paid under such subdivisions for the 1999-2000 fiscal year;

(b) [Effective until July 1, 2021.] Subdivision (a)(3)(B)(v)(a) shall not apply in the 2017-2018 fiscal year through the 2020-2021 fiscal year. This subdivision (a)(3)(B)(v)(b) is repealed on July 1, 2021.

(C) Any municipality shall have the right to take not more than four (4) special censuses at its own expense at any time during the interim between the regular decennial federal census. Such right shall include the current decennium. Any such census shall be taken by the federal bureau of the census, or in a manner directed by and satisfactory to the department of economic and community development. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1 following the certification of the census results by the federal bureau of the census or the department of economic and community development to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as provided in this subdivision (a)(3)(C);

(D) Any other such special census of the entire municipality taken in the same manner provided in this section, under any other law, shall be used for the distribution of such funds, and in that case, no additional special census shall be taken under this section;

(E) Before distributing moneys to incorporated municipalities from the sales tax, as provided for herein, the commissioner of finance and administration shall make a deduction therefrom monthly of a sum equal to one percent (1%) of the monthly allocation of the four and six thousand thirty ten-thousandths percent (4.6030%) of sales tax collections allocated to incorporated municipalities. This sum, together with an appropriation per annum from the general fund of the state, shall be apportioned and transmitted to the University of Tennessee for use by the university in establishing and operating a municipal technical advisory service in its institute for public service, and shall be used for studies and research in municipal government, publications, educational conferences and attendance at such conferences and in furnishing technical, consultative and field services to municipalities in problems relating to fiscal administration, accounting, tax assessment and collection, law enforcement, improvements and public works, and in any and all matters relating to municipal government. This program shall be carried on in cooperation with and with the advice of cities and towns in the state acting through the Tennessee municipal league and its executive committee, which is recog-
nized as their official agency or instrumentality;

(F)(i) A county ranking in the first quartile of county economic distress in the United States for fiscal year 2006, as determined pursuant to subdivision (a)(3)(F)(v) and bordering on, or crossed by, the Tennessee River, may elect to be a “Tennessee River resort district” for purposes of this chapter. A municipality within such county and located within three (3) miles of the nearest bank of the Tennessee River, may also elect to be a “Tennessee River resort district” for purposes of this chapter. Notwithstanding any other provision of law to the contrary, as an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a Tennessee River resort district shall receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and remitted by dealers within the boundaries of such district. Any distribution made to a Tennessee River resort district pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a Tennessee River resort district pursuant to the election, the amount that would have been received by such district had the district not exercised the election shall be earmarked and allocated to the general fund. This subdivision (a)(3)(F)(i) shall also apply in any county that has a population of less than ten thousand (10,000), according to the 2000 federal census or any subsequent federal census, and borders the Tennessee River and a county included within the Tennessee River resort district. This subdivision (a)(3)(F)(i) shall also apply in any county having a population of not less than twelve thousand three hundred sixty-nine (12,369) nor more than twelve thousand four hundred fifty (12,450) and in any county having a population of not less than seventeen thousand nine hundred (17,900) nor more than eighteen thousand (18,000), all according to the 2000 federal census or any subsequent federal census, and that border the Tennessee River;

(ii)(a) Subject to subdivision (a)(3)(F)(iv), a county, or municipality within a county, described in subdivision (a)(3)(F)(i) may elect Tennessee River resort district status by adopting a resolution or ordinance approved by a two-thirds ($2/3$) vote of the legislative body of the jurisdiction. A county, or municipality within a county, described in subdivision (a)(3)(F)(i) that has elected Tennessee River resort district status may repeal such election by adopting a resolution or ordinance approved by a two-thirds ($2/3$) vote of the legislative body of the jurisdiction;

(b)(I) A county originally eligible to elect Tennessee River resort district status under chapter 212 of the Public Acts of 2005, and initially electing Tennessee River resort district status after August 1, 2007, may elect Tennessee River resort district status for purposes of this subdivision (a)(3)(F) only and not for the purposes of title 57, chapter 4, part 1, by including the following language in the electing resolution:

Notwithstanding the provisions of Tennessee Code Annotated, §§ 57-4-101(a)(19) and 57-4-102(35), to the contrary, ______ County shall not be considered a Tennessee River Resort District for purposes of Tennessee Code Annotated, Title 57, Chapter 4, Part 1.
(2) In order for the election to be effective, all eligible cities within the county must elect Tennessee River resort district status before the county makes the election. Municipalities having a population of not less than two thousand six hundred (2,600) nor more than two thousand seven hundred fifty (2,750), according to the 2000 federal census or any subsequent federal census, making the election as provided in this subdivision (a)(3)(F)(ii) shall not receive less in state shared taxes under this subdivision (a)(3) than the municipality would otherwise receive had it not made the election;

(c) The approval or nonapproval of a resolution or ordinance adopted pursuant to this subdivision (a)(3)(F)(ii) shall be proclaimed by the presiding officer of the jurisdiction. Within thirty (30) days of adopting the resolution or ordinance, the presiding officer of the jurisdiction shall send a certified copy of the ordinance or resolution to the secretary of state and the commissioner of revenue;

(iii) Notwithstanding any other provision of law to the contrary, of the revenue retained pursuant to an election under subdivision (a)(3)(F)(i), less the amount that would have been received by such district had the district not exercised the election, fifty percent (50%) shall be used exclusively for either the promotion and support of tourism in the jurisdiction or the promotion and support of tourism in conjunction with other jurisdictions so electing Tennessee River resort district status;

(iv) Tennessee River resort district status may be elected by both a county and a municipality within such county, subject to the following provisions:

(a) If the election occurs between January 1, 2006, and June 30, 2006, a municipality electing Tennessee River resort district status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the municipality only. A county electing such status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county; provided, however, that the county shall only be entitled to receive such revenue outside the jurisdiction of any municipality electing Tennessee River resort district status located in the county; or

(b) If election occurs on and after July 1, 2006, a county electing Tennessee River resort district status prior to a non-electing municipality shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county and within the boundaries of non-electing municipalities. No non-electing municipality shall later elect Tennessee River resort district status; provided, that a non-electing municipality may elect such status prior to election of such status by the county and, in that event, tax collections would be distributed in accordance with subdivision (a)(3)(F)(iv)(a);

(v) Prior to July 1, 2005, the commissioner of economic and community development shall publish a map of those Tennessee counties that rank in the first quartile of county economic distress in the United States for fiscal year 2006 based on comparing the following indicators: three-year average unemployment, per-capita market income and pov-
Notwithstanding any provision of this subdivision (a)(3)(F) to the contrary, the election provided in this subdivision (a)(3)(F) shall only be available to eligible counties and municipalities that make the election prior to July 1, 2008;
(4) Three thousand six hundred seventy-four ten-thousandths percent (0.3674%), or so much thereof as may be required, is appropriated to the department of revenue in addition to its regular appropriation to be expended by it in the administration and enforcement of this chapter; and  
(5) Nine thousand one hundred eighty-five ten-thousandths percent (0.9185%) is appropriated to the sinking fund account to be used by the state funding board for the payment of principal and interest becoming due on state bonds issued by the state of Tennessee.

(b)(1) Notwithstanding the allocations provided for in subsection (a), all moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation, railways, or water carriers on or after July 1, 1988, shall be deposited by the commissioner in a separate account to be known as the transportation equity trust fund. The funds in this account shall be used by the department of transportation for railways, aeronautics, and waterways related programs and activities. This subsection (b) does not supersede or affect former § 67-3-501 [repealed].

(2) It is declared to be the legislative intent that railways, aeronautics and waterways programs and operations are vital to the economic and social development of the state of Tennessee and as such should be considered an equal priority of the department in the administration of its programs.

(c)(1) Notwithstanding any law to the contrary, all revenue generated from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) and from the tax levied at the rate of two and three quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600) but less than or equal to three thousand two hundred dollars ($3,200) on the sale or use of any single article of personal property pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be paid into the state general fund and allocated exclusively for general state purposes.

(2) Notwithstanding any law to the contrary, all revenue generated from the one-half percent (0.5%) increase in the sales and use tax rate that became effective April 1, 1992, shall be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12). Revenue generated from one-half percent (0.5%) of the tax rate provided in § 67-6-228 shall continue to be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12) regardless of whether the tax rate provided in § 67-6-228 is reduced below six percent (6%).

(d)(1)(A)(i) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League, or Central Hockey League or East Coast
Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(ii) If an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to all other events occurring at the indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the sports facility, parking charges, and related services. The amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iii) Notwithstanding the allocations provided for in subsection (a), if a franchise for a minor league affiliate of a major league baseball team (American or National League) playing at the Class AA level or higher locates in a municipality in this state and if the municipality constructs a new stadium for the franchise, then at such time as the franchise begins operating in the new stadium, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the entity that is responsible for retirement of the debt on and maintenance of the stadium in the municipality equal to the amount of state and local tax revenue derived from the sale of admissions to games of the professional sports franchise, and also the sale of food and drink sold on the premises of the stadium used in conjunction with those games, parking charges, and related services, as well as the sale by the professional sports franchise, within the county in which the games take place, of authorized franchise goods and products associated with its operations as a professional sports franchise less local taxes collected in the year preceding the new stadium occupancy. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality,
in accordance with title 7, chapter 67.

(iv) For the purpose of this subsection (d), “municipality” means any metropolitan government, incorporated city or county located in this state.

(v) Notwithstanding any provision of this subdivision (d)(1)(A) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(B) In lieu of distribution to any municipality, amounts derived from a National Football League franchise shall be earmarked and allocated specifically and exclusively to the general fund. In all cases, any distribution to a municipality as provided for by this subsection (d) shall be limited to a period of thirty (30) years, which shall be concurrent with the time limitation established by subdivision (d)(2). Following the expiration of this thirty-year period, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this subsection (d).

(C) Notwithstanding the allocations provided in subsection (a), if there exists in a municipality in this state a sports authority organized pursuant to title 7, chapter 67, and if a new motor sports facility locates in that municipality, and if the sports authority issues bonds or notes and uses the proceeds to assist with the development of such motor sports facility, including, but not limited to, the construction of roads, streets, highways, curbs, bridges, flood control facilities, and utility services, such as water, sanitary sewer, electricity, gas and natural gas, and telecommunications for such facility, then at such time as the new motor sports facility begins operating, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the sports authority of that municipality, or other entity that is responsible for the retirement of the debt evidenced by such bonds or notes, equal to the amount of state and local tax revenue derived from the sale of admissions to events at such facility, and also the sale of food and drinks sold on the premises of such facility used in conjunction with those events, parking charges, and related services, as well as the sale at such facility of souvenirs, memorabilia, and other goods and products associated with the operation of the facility. Such amount distributed shall be for the exclusive use of the sports authority, or comparable municipal agency, formally designated by the municipality in accordance with title 7, chapter 67. Notwithstanding this section, a sports authority and the municipality in which it is located may enter into an agreement under which all or any portion of the local tax revenue may be paid to the municipality for its exclusive use. For the purposes of this subdivision (d)(1)(C), “municipality” means any incorporated city or county located in the state of Tennessee. This subdivision (d)(1)(C) shall only be applicable if the cost of the acquisition of real property for such new motor sports facility, together with the costs of constructing and equipping the facility, exceeds forty million dollars ($40,000,000), incurred
after January 1, 1999. The state portion of the tax revenue shall be distributed to the sports authority only if, at the date of such distribution, the sports authority has outstanding indebtedness due on such bonds or notes described in this subdivision (d)(1)(C).

(D) Notwithstanding the allocations provided for in subsection (a), if a baseball and softball complex, comprised of at least seventeen (17) baseball and softball fields and designed to host both local league play, as well as regional and national youth baseball and softball tournaments, is constructed adjacent to a stadium used by a franchise for a minor league affiliate of a major league baseball team, American or National League, playing at the Class AA level or higher, with respect to which an apportionment and distribution is made pursuant to subdivision (d)(1)(A), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on such baseball and softball complex, equal to the amount of state and local tax revenue derived from the sale of admissions to events at the baseball and softball complex and from the sale of food and drink and other authorized goods or products sold on the premises of the baseball and softball complex in conjunction with those events. This apportionment and distribution shall continue until the debt on the baseball and softball complex is retired. Such apportionment and distribution shall continue in the event the adjacent stadium ceases to house a minor league affiliate of a major league baseball team playing at the Class AA level or higher. Notwithstanding any provision of this subdivision (d)(1)(D) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(D). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002, respectively.

(E)(i) Notwithstanding the allocations provided for in subsection (a), if a new convention center that qualifies as a public use facility under title 7, chapter 88 is constructed in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if such sales occur on the premises of the convention center or any related ancillary facilities, including, but not limited to, any tourism, theatre, retail business or commercial office space facilities or parking facilities. The apportionment and distribution shall begin at the time that the convention center begins operations and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner.

(ii) In addition to the distribution provided in subdivision (d)(1)(E)(i), if either one (1) or two (2) new hotels are constructed in connection with
the construction of the convention center, then an amount shall also be
apportioned and distributed to the entity that is responsible for the
retirement of the debt on the convention center and ancillary facilities
equal to the amount of state and local tax revenue derived under this
chapter from the sale of lodging, parking, food, drink and any other
things or services subject to tax under this chapter, if the sales occur on
the premises of the hotels. The apportionment and distribution shall
begin at the time that the convention center begins operations and shall
continue for thirty (30) years, or until the debt on the convention center
is retired, whichever is sooner. To be entitled to receive the distribution
of state and local tax revenue under this subdivision (d)(1)(E)(ii), the
entity responsible for the retirement of the debt on the convention
center must first file with the department of finance and administration
an application seeking certification that the construction of the hotels is
directly related to the construction of the convention center. The
department of finance and administration shall review the application
to confirm whether the hotels meet the requirements of this subdivision
(d)(1)(E)(ii). The department of finance and administration shall report
its determination to the department of revenue, which shall administer
this subdivision (d)(1)(E)(ii) accordingly.

(iii) In addition to the distribution provided in subdivisions
(d)(1)(E)(i) and (ii), if a hotel within the footprint of the convention
center, as determined by the commissioner of revenue and the commis-
sioner of economic and community development, undertakes a signifi-
cant capital improvement program in connection with the construction
of the convention center, then an amount shall also be apportioned and
distributed to the entity that is responsible for the retirement of the debt
on the convention center and ancillary facilities equal to the amount of
state and local tax revenue derived under this chapter from the sale of
lodging, parking, food, drink, and any other things or services subject to
tax under this chapter, if the sales occur on the premises of the hotel.
The apportionment and distribution shall begin at the time that the
significant capital improvement program is substantially completed and
shall continue for thirty (30) years, or until the debt on the convention
center is retired, whichever is sooner. To be entitled to receive the
distribution of state and local tax revenue under this subdivision
(d)(1)(E)(iii), the entity responsible for the retirement of the debt on the
convention center must first receive certification from the commissioner
of revenue and the commissioner of economic and community develop-
ment, with the approval of the commissioner of finance and administra-
tion, that the capital improvement program is directly related to the
construction of the convention center.

(iv) Notwithstanding any provision of this subdivision (d)(1)(E) to the
contrary, no portion of the revenue derived from the increase in the rate
of sales and use tax allocated to educational purposes pursuant to the
chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue
derived from the increase in the rate of sales and use tax from six
percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the
Public Acts of 2002 shall be apportioned and distributed pursuant to this
subdivision (d)(1)(E). All such revenue shall continue to be allocated as
provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the
Public Acts of 2002, respectively.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (d)(1).

(e) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this chapter, except revenue allocated pursuant to subdivision (c)(2), shall be earmarked and allocated in accordance with title 7, chapter 88.

(f) Notwithstanding subsections (a)-(e), the state tax on fees or charges for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption on charges or fees in excess of fifteen dollars ($15.00) but less than twenty-seven dollars and fifty cents ($27.50) per month, shall be for state purposes only and shall be earmarked and allocated specifically and exclusively to the general fund. Any amounts derived from the sales tax on fees or charges for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption, in excess of twenty-seven dollars and fifty cents ($27.50) shall be taxed at the state rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 in accordance with part 2 of this chapter, as well as pursuant to the local option revenue act in part 7 of this chapter, and be distributed in accordance with this section. Counties and incorporated municipalities shall use funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712.

(g) [Contingent on funding. See the Compiler’s Notes.]

(1) Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is a state park containing approximately six thousand five hundred (6,500) acres, of which approximately four thousand (4,000) acres are an impounded reservoir, a portion of which is owned by the Tennessee Valley authority, over which an easement has been given to the state and the state has leased or otherwise conveyed its rights to the property to such county for development, an amount equal to the amount of state and local sales taxes derived from sales occurring within such property. Such amount distributed to the county shall be exclusively for retirement of the indebtedness incurred by such county for development of such property, to the same extent that such county may pledge any revenues of the county.

(2)(A) Notwithstanding any provision of this subsection (g) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (g). All such revenue shall continue to be allocated as provided in chapter 529, § 9 of the Public Acts of 1992, and chapter 856, § 4 of the Public Acts of 2002.

(B) Notwithstanding any provision of this subsection (g) to the contrary, prior to any annual distribution pursuant to subdivision (g)(1), an amount equal to the state sales and use taxes collected within such area in fiscal year 2004-2005 shall be deposited in the treasury and allocated as
otherwise provided by law.

(3) Prior to the issuance of any bonds for development of property subject to this subsection (g), the county legislative body shall submit its plan for development to the executive committee of the state building commission for such committee’s review and recommendation to the state building commission.

(h)(1) Notwithstanding the provisions of this section to the contrary, revenue derived from state taxes imposed by this chapter shall be earmarked and allocated in accordance with the Courthouse Square Revitalization Pilot Project Act of 2005, compiled in title 6, chapter 59.

(2) Notwithstanding a repeal of title 6, chapter 59, any municipality receiving an allocation of state sales tax revenue on June 1, 2015, pursuant to title 6, chapter 59, shall continue to receive the allocation of the revenue until June 30, 2023. The allocation shall equal the amount of revenue derived from the state tax imposed by this chapter on the sale or use of goods, products and services within the courthouse square revitalization zone. For purposes of this subdivision (h)(2), “courthouse square revitalization zone” has the same meaning provided in § 6-59-102 and shall consist of the area that is included within the revitalization zone on June 1, 2015.

(3) No portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002.

(i)(1) Notwithstanding the allocations provided for in subsection (a), if a new museum dedicated to coal mining is constructed in a county containing a spallation neutron source facility, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the museum. The apportionment and distribution shall begin at the time that the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(2)(A) In addition to the distribution provided in subdivision (i)(1), if a new hotel is constructed in connection with the construction of the museum and the hotel is located within one (1) mile of the museum’s entrance, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotel. The apportionment and distribution shall begin at the time the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(B) To be entitled to receive the distribution of state and local tax revenue under subdivision (i)(2)(A), the entity responsible for the retire-
ment of the debt on the museum must first file with the department of finance and administration an application seeking certification that the construction of the hotel is directly related to the construction of the museum. The department of finance and administration shall review the application to confirm whether the hotel meets the requirements of this subdivision (i)(2). The department of finance and administration shall report its determination to the department of revenue, which shall administer this subdivision (i)(2) accordingly.

(3) Notwithstanding any provision of this subsection (i) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002, shall be apportioned and distributed pursuant to this subsection (i). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992, and chapter 856 of the Public Acts of 2002, respectively.

(j) Notwithstanding this section and any other law to the contrary, there is established a separate account in the local government fund to be known as the county revenue partnership fund. The apportionment of revenues to the fund and distributions from the fund shall be subject to the following provisions:

(1) Any apportionment of revenues to the county revenue partnership fund shall be allocated only from the revenues apportioned to the state general fund pursuant to subdivision (a)(1);

(2) Apportionment of revenues to the county revenue partnership fund may be made in any year pursuant to an allocation made in a specific dollar amount in the general appropriations act, and no apportionment shall otherwise be made to the fund; provided, however, that in fiscal years 2007-2008 and 2008-2009, no revenue shall be apportioned to the fund;

(3) The apportionment to and distributions from the county revenue partnership fund in any fiscal year shall not exceed the amount distributed to municipalities from the state sales tax pursuant to subdivision (a)(3)(A) in the previous fiscal year;

(4) In any fiscal year in which revenues are apportioned to the county revenue partnership fund, the revenue shall be allocated and distributed to all counties and metropolitan governments in this state monthly by the commissioner of finance and administration, in proportion as the population of each county or metropolitan government bears to the aggregate population of the state, according to the latest federal census or other censuses authorized by law;

(5) The county legislative body shall, on an annual basis, direct the trustee with regard to allocating and depositing the revenue from this fund among the various funds of the county budget; and

(6) In the state budget document, the county revenue partnership fund shall be listed in the report of revenue sources and basis of apportionment, and the amount apportioned to the fund shall be stated in the distribution of revenues by fund for each year in the comparison statement of state revenues, regardless of whether any revenue is apportioned to the fund for a given fiscal year.

(k)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a performing arts center that consists of four (4) or more auditoriums,
has a total seating capacity of five thousand four hundred (5,400) or more, and is operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), and if the performing arts center is located in facilities owned by the state or a political subdivision of the state, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the performing arts center. A performing arts center may consist of two (2) or more performance venues with auditoriums located in two (2) or more buildings that are contiguous or in close proximity and are owned by the state or a political subdivision of the state. The amount apportioned and distributed pursuant to this subsection (k) shall be equal to the amount of state tax revenue derived under this chapter from the sale of tickets for admission to events held at the performing arts center; provided, however, that the apportionment and distribution shall be used exclusively for maintenance and improvement of the facilities in which the performing arts center is located, which shall include, but not be limited to, capital improvements, additions and renovations to the facilities and debt service on funds borrowed to pay for the improvements, additions and renovations. Debt service shall include principal and interest payments on existing and future debt obligations, including repayment to the exempt organization operating the facilities of funds advanced or loaned by the organization that were used or are used to pay the costs, in whole or in part, of the improvements, additions and renovations to the facilities.

(2) Notwithstanding subdivision (k)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (k). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(l)(1) Notwithstanding the allocations in subsection (a), except as provided in subdivision (l)(2), state tax revenue collected from commercial breeders licensed under the Commercial Breeder Act, compiled in title 44, chapter 17, part 7, shall be allocated to the Commercial Breeder Act enforcement and recovery account.

(2) Notwithstanding subdivision (l)(1), no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be allocated to the Commercial Breeder Act enforcement and recovery account. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(m)(1) Notwithstanding the allocations provided for in subsection (a), if a hotel or inn that is more than one hundred fifty (150) years old is owned by a municipality and operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), and if the hotel or inn is located in facilities owned by the state or a political subdivision of the state, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the hotel or inn.
Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt incurred in renovating the hotel or inn. The amount apportioned and distributed pursuant to this subsection (m) shall be equal to the amount of state tax revenue derived under this chapter from the sale of goods and services on the premises of the hotel or inn; provided, however, that the apportionment and distribution shall be used exclusively for the retirement of debt incurred prior to April 1, 2009, including any interest thereon, in renovating the hotel or inn and shall continue only until the debt is retired.

(2) Notwithstanding subdivision (m)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (m). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(n)(1) As used in this subsection (n), unless the context otherwise requires:

(A) “Best interests of the state” means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(i) The public improvements made within or adjacent to a mixed-use development are a result of the special allocation and distribution of state sales tax provided for in this subsection (n); and

(ii) The mixed-use development is a result of such public improvements;

(B) “Commercial development zone” means an area in which a mixed-use development is planned or located. To comprise a commercial development zone, the area:

(i) Must be located entirely within an eligible county;

(ii) Shall not exceed one thousand two hundred (1,200) acres; and

(iii) Must be located adjacent to a federally designated interstate highway;

(C) “Eligible county” means any county in which:

(i) At least twenty-five percent (25%) of the county consists of federally-owned land;

(ii) At least thirty and three-fifths percent (30.6%) of the county’s population, eighteen (18) years of age and younger, lives in poverty as determined by the United States census bureau, small area income and poverty estimates (SAIPE) program, or any comparable successor program, within the three-year period immediately preceding establishment of the commercial development zone; and

(iii) The federal highway administration has approved an interstate exit in close proximity to the area proposed for a commercial development zone, and such approval was based on the need to stimulate local economic development opportunities;

(D) “Mixed-use development” means an area, located entirely within an eligible county, containing not less than five hundred (500) acres nor more than one thousand two hundred (1,200) acres and includes, but is not
limited to, property with commercial uses; and

(E) “Public improvements” means roads, streets, sidewalks, utility services, such as electricity, gas, water and sanitary sewer, and related services, parking facilities, parks, and all other necessary or desirable improvements to be used by the public in connection with a commercial development zone.

(2) Notwithstanding the allocations provided for in subsection (a), if an eligible county has good reason to anticipate that a private entity is willing to plan and develop a mixed-use development; and if the commissioner of revenue, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by this subsection (n), is in the best interests of the state, then the county legislative body may adopt a resolution designating a commercial development zone for such mixed-use development; provided, however, no county shall contain more than one (1) commercial development zone; and provided further, however, the county legislative body must adopt such resolution on or before June 30, 2011. If the county legislative body duly adopts such resolution, and if the county or an industrial development board, pursuant to subdivision (n)(3), issues bonds payable in whole or part from the tax revenues described herein and uses the proceeds to finance any development or public improvements constructed within or adjacent to the commercial development zone, then an amount shall be apportioned and distributed to such county for the retirement of debt evidenced by such bonds. The amount apportioned and distributed to the county pursuant to this subsection (n) shall equal the amount of state tax revenue derived under this chapter from sales of items and services subject to tax pursuant to this chapter, if the sales occur within the commercial development zone. The apportionment and distribution of such revenue shall begin upon the receipt of a certificate of occupancy for the first retail business operating within the commercial development zone and shall continue for a period of thirty (30) years, or until the debt, including any refunding debt, relating to the commercial development zone is retired, whichever is sooner.

(3) An eligible county in which a commercial development zone is duly located is authorized to delegate to any industrial development corporation incorporated by the county or a municipality within the county the authority to issue revenue bonds to finance development or public improvements within or adjacent to a commercial development zone; provided, that the county shall enter into an agreement with the industrial development corporation in which the county shall agree to promptly pay to the industrial development corporation the tax revenues described in this subsection (n). Upon receipt, such tax revenues shall be held in trust by the county for the benefit of the industrial development corporation.

(4) Notwithstanding any provision of subdivision (n)(2) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (n). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.
(o)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a zoo or aquarium that is accredited by the Association of Zoos and Aquariums and has received and currently holds a determination of exemption from the Internal Revenue Service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), then an amount shall be apportioned and distributed to the zoo or aquarium equal to the amount of state tax revenue derived under this chapter from the sale of tangible personal property or amusements on the premises of the zoo or aquarium; provided, however, that such apportionment and distribution shall be used exclusively for the operation of the zoo or aquarium, including, but not limited to, capital projects.

(2) Notwithstanding subdivision (o)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (o). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(p) Notwithstanding § 7-40-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(q) Notwithstanding the allocations provided for in subsection (a) and § 67-6-710, all moneys received and identified by the commissioner as moneys paid by out-of-state dealers acting in compliance under this chapter with any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988, shall be reported monthly by the commissioner and apportioned into special reserve accounts in the various funds that, pursuant to applicable statutes, share in the proceeds of sales tax collections. Interest earnings on the moneys collected shall be calculated by the division of accounts, department of finance and administration, and allocated monthly to the various fund reserve accounts. Such moneys shall remain in these reserve accounts and shall not revert at the end of any fiscal year; provided, however, such moneys shall be earmarked, allocated and become available for appropriation as otherwise provided in this chapter upon certification by the attorney general and reporter of the happening of any of the following:

(1) The final resolution of any contested case brought before the commissioner under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, or suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988;

(2) The effective date of a federal law enacted by the United States Congress to regulate the various states’ ability to require out-of-state dealers to collect the taxes imposed by this chapter, pursuant to its authority to
regulate interstate commerce; or

(3) That no party has brought a contested case before the commissioner under the Uniform Administrative Procedures Act or a suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988; provided, however, that any certification under this subdivision (q)(3) shall not occur before June 30, 2018.

67-6-103. Deposit and allocation of receipts — Transportation equity trust fund — Other special allocations. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) The commissioner shall deposit promptly to the credit of the state treasurer in state depositories all moneys received by the commissioner under this chapter, and all such moneys shall be earmarked and allocated as follows:

(1) Twenty-nine and one hundred forty-one ten-thousandths percent (29.0141%) of such moneys shall be earmarked and allocated specifically and exclusively to the general fund;

(2) Sixty-five and nine hundred seventy ten-thousandths (65.0970%) of such moneys shall be earmarked and allocated specifically and exclusively to educational purposes;

(3)(A) Four and six thousand thirty ten-thousandths percent (4.6030%) shall be appropriated to the several incorporated municipalities within the state of Tennessee to be allocated and distributed to them monthly by the commissioner of finance and administration, in the proportion as the population of each municipality bears to the aggregate population of all municipalities within the state, according to the latest federal census and other censuses authorized by law. Municipalities incorporated subsequent to the last decennial federal census shall, until the next decennial federal census, be eligible for an allotment, commencing on July 1, following incorporation, election and installation of officials, on the population basis determined under regulations of the department of economic and community development and certified by that office to the commissioner; provided, that an accurate census of population has been certified to the department of economic and community development by the municipality. Municipalities now participating in allocation shall continue to do so on the basis of their population determined according to law;

(B)(i) A municipality having a population of one thousand one hundred (1,100) or more persons, according to the 1970 federal census or any subsequent federal census, in which at least forty percent (40%) of the assessed valuation, as shown by the tax assessment rolls or books of the municipality, of the real estate in the municipality consists of hotels, motels, tourist courts accommodation, tourist shops and restaurants, is defined as a “premier type tourist resort” for purposes of this chapter. As an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a premier type tourist resort may elect to receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and remitted by dealers within the boundaries of such resort. Any distribution made to a premier type tourist resort pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a premier type tourist resort pursuant to
the election, the amount that would have been received by such resort had the resort not exercised the election shall be earmarked and allocated to the general fund;

(ii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also owning a golf course and ski slope shall also receive an amount equal to the amount distributed pursuant to subdivision (a)(3)(B)(i). Any distribution made to such a municipality shall be earmarked and paid from the general fund for the purpose of assisting in the retirement of the convention center obligations in connection with the acquisition, construction and operation of the convention center;

(iii) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(i) and also containing within its boundaries a theme park of not less than eighty (80) acres shall also receive an amount equal to the distribution pursuant to subdivision (a)(3)(B)(i);

(iv)(a) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(ii) shall also receive in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to fifty-six percent (56%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(ii), and an amount equal to ninety percent (90%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(b) A municipality meeting the criteria set forth in subdivision (a)(3)(B)(iii) shall also receive, in addition to amounts authorized in this subsection (a) in the 1988-1989 fiscal year, an amount equal to sixty percent (60%) of the amount distributed in the 1986-1987 fiscal year pursuant to subdivision (a)(3)(B)(iii), and an amount equal to ninety-six percent (96%) of the amount distributed in the 1986-1987 fiscal year in subsequent years;

(v)(a) The collective amounts paid under subdivisions (a)(3)(B)(i)-(iv) shall be limited to the collective amounts paid under such subdivisions for the 1999-2000 fiscal year;

(b) [Effective until July 1, 2021.] Subdivision (a)(3)(B)(v)(a) shall not apply in the 2017-2018 fiscal year through the 2020-2021 fiscal year. This subdivision (a)(3)(B)(v)(b) is repealed on July 1, 2021.

(C) Any municipality shall have the right to take not more than four (4) special censuses at its own expense at any time during the interim between the regular decennial federal census. Such right shall include the current decennium. Any such census shall be taken by the federal bureau of the census, or in a manner directed by and satisfactory to the department of economic and community development. The population of the municipality shall be revised in accordance with the special census for purposes of distribution of such funds, effective on the next July 1 following the certification of the census results by the federal bureau of the census or the department of economic and community development to the commissioner of finance and administration; the aggregate population shall likewise be adjusted in accordance with any such special census, effective the same date as provided in this subdivision (a)(3)(C);

(D) Any other such special census of the entire municipality taken in the same manner provided in this section, under any other law, shall be used for the distribution of such funds, and in that case, no additional special census shall be taken under this section;
(E) Before distributing moneys to incorporated municipalities from the sales tax, as provided for herein, the commissioner of finance and administration shall make a deduction therefrom monthly of a sum equal to one percent (1%) of the monthly allocation of the four and six thousand thirty ten-thousandths percent (4.6030%) of sales tax collections allocated to incorporated municipalities. This sum, together with an appropriation per annum from the general fund of the state, shall be apportioned and transmitted to the University of Tennessee for use by the university in establishing and operating a municipal technical advisory service in its institute for public service, and shall be used for studies and research in municipal government, publications, educational conferences and attendance at such conferences and in furnishing technical, consultative and field services to municipalities in problems relating to fiscal administration, accounting, tax assessment and collection, law enforcement, improvements and public works, and in any and all matters relating to municipal government. This program shall be carried on in cooperation with and with the advice of cities and towns in the state acting through the Tennessee municipal league and its executive committee, which is recognized as their official agency or instrumentality;

(F)(i) A county ranking in the first quartile of county economic distress in the United States for fiscal year 2006, as determined pursuant to subdivision (a)(3)(F)(v) and bordering on, or crossed by, the Tennessee River, may elect to be a “Tennessee River resort district” for purposes of this chapter. A municipality within such county and located within three (3) miles of the nearest bank of the Tennessee River, may also elect to be a “Tennessee River resort district” for purposes of this chapter. Notwithstanding any other provision of law to the contrary, as an alternative to and in lieu of the allocation prescribed in subdivision (a)(3)(A), a Tennessee River resort district shall receive four and six thousand thirty ten-thousandths percent (4.6030%) of the tax actually collected and remitted by dealers within the boundaries of such district. Any distribution made to a Tennessee River resort district pursuant to such election shall be earmarked and paid from the general fund. If, however, any such payment is made to a Tennessee River resort district pursuant to the election, the amount that would have been received by such district had the district not exercised the election shall be earmarked and allocated to the general fund. This subdivision (a)(3)(F)(i) shall also apply in any county that has a population of less than ten thousand (10,000), according to the 2000 federal census or any subsequent federal census, and borders the Tennessee River and a county included within the Tennessee River resort district. This subdivision (a)(3)(F)(i) shall also apply in any county having a population of not less than twelve thousand three hundred sixty-nine (12,369) nor more than twelve thousand four hundred fifty (12,450) and in any county having a population of not less than seventeen thousand nine hundred (17,900) nor more than eighteen thousand (18,000), all according to the 2000 federal census or any subsequent federal census, and that border the Tennessee River;

(ii)(a) Subject to subdivision (a)(3)(F)(iv), a county, or municipality within a county, described in subdivision (a)(3)(F)(i) may elect Tennessee River resort district status by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the
jurisdiction. A county, or municipality within a county, described in subdivision (a)(3)(F)(i) that has elected Tennessee River resort district status may repeal such election by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the jurisdiction;

(b)(1) A county originally eligible to elect Tennessee River resort district status under chapter 212 of the Public Acts of 2005, and initially electing Tennessee River resort district status after August 1, 2007, may elect Tennessee River resort district status for purposes of this subdivision (a)(3)(F) only and not for the purposes of title 57, chapter 4, part 1, by including the following language in the electing resolution:

Notwithstanding the provisions of Tennessee Code Annotated, §§ 57-4-101(a)(19) and 57-4-102(35), to the contrary, _____ County shall not be considered a Tennessee River Resort District for purposes of Tennessee Code Annotated, Title 57, Chapter 4, Part 1.

(2) In order for the election to be effective, all eligible cities within the county must elect Tennessee River resort district status before the county makes the election. Municipalities having a population of not less than two thousand six hundred (2,600) nor more than two thousand seven hundred fifty (2,750), according to the 2000 federal census or any subsequent federal census, making the election as provided in this subdivision (a)(3)(F)(ii) shall not receive less in state shared taxes under this subdivision (a)(3) than the municipality would otherwise receive had it not made the election;

(c) The approval or nonapproval of a resolution or ordinance adopted pursuant to this subdivision (a)(3)(F)(ii) shall be proclaimed by the presiding officer of the jurisdiction. Within thirty (30) days of adopting the resolution or ordinance, the presiding officer of the jurisdiction shall send a certified copy of the ordinance or resolution to the secretary of state and the commissioner of revenue;

(iii) Notwithstanding any other provision of law to the contrary, of the revenue retained pursuant to an election under subdivision (a)(3)(F)(i), less the amount that would have been received by such district had the district not exercised the election, fifty percent (50%) shall be used exclusively for either the promotion and support of tourism in the jurisdiction or the promotion and support of tourism in conjunction with other jurisdictions so electing Tennessee River resort district status;

(ii) Tennessee River resort district status may be elected by both a county and a municipality within such county, subject to the following provisions:

(a) If the election occurs between January 1, 2006, and June 30, 2006, a municipality electing Tennessee River resort district status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the municipality only. A county electing such status shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county; provided, however, that the county shall only be entitled to receive such revenue outside the jurisdiction of any municipality electing Tennessee River resort district status located in the county; or
(b) If election occurs on or after July 1, 2006, a county electing Tennessee River resort district status prior to a non-electing municipality shall be entitled to the authorized percentage of tax actually collected and remitted by dealers within the boundaries of the county and within the boundaries of non-electing municipalities. No non-electing municipality shall later elect Tennessee River resort district status; provided, that a non-electing municipality may elect such status prior to election of such status by the county and, in that event, tax collections would be distributed in accordance with subdivision (a)(3)(F)(iv)(a);

(v) Prior to July 1, 2005, the commissioner of economic and community development shall publish a map of those Tennessee counties that rank in the first quartile of county economic distress in the United States for fiscal year 2006 based on comparing the following indicators: three-year average unemployment, per-capita market income and poverty rate;

(vi) Notwithstanding any provision of this subdivision (a)(3)(F) to the contrary, the election provided in this subdivision (a)(3)(F) shall only be available to eligible counties and municipalities that make the election prior to July 1, 2008;

(4) Three thousand six hundred seventy-four ten-thousandths percent (0.3674%), or so much thereof as may be required, is appropriated to the department of revenue in addition to its regular appropriation to be expended by it in the administration and enforcement of this chapter; and

(5) Nine thousand one hundred eighty-five ten-thousandths percent (0.9185%) is appropriated to the sinking fund account to be used by the state funding board for the payment of principal and interest becoming due on state bonds issued by the state of Tennessee.

(b)(1) Notwithstanding the allocations provided for in subsection (a), all moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation, railways, or water carriers on or after July 1, 1988, shall be deposited by the commissioner in a separate account to be known as the transportation equity trust fund. The funds in this account shall be used by the department of transportation for railways, aeronautics, and waterways related programs and activities. This subsection (b) does not supersede or affect former § 67-3-501 [repealed].

(2) It is declared to be the legislative intent that railways, aeronautics and waterways programs and operations are vital to the economic and social development of the state of Tennessee and as such should be considered an equal priority of the department in the administration of its programs.

(c)(1) Notwithstanding any law to the contrary, all revenue generated from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) and from the tax levied at the rate of two and three quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600) but less than or equal to three thousand two hundred dollars ($3,200) on the sale or use of any single article of personal property pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be paid into the state general fund and allocated exclusively for general state purposes.

(2) Notwithstanding any law to the contrary, all revenue generated from the one-half percent (0.5%) increase in the sales and use tax rate that became
effective April 1, 1992, shall be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12). Revenue generated from one-half percent (0.5%) of the tax rate provided in § 67-6-228 shall continue to be deposited in the state general fund and earmarked for education purposes in kindergarten through grade twelve (K-12) regardless of whether the tax rate provided in § 67-6-228 is reduced below six percent (6%).

(d)(1)(A)(i) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association), soccer (Major League Soccer), or major or minor league professional hockey (National Hockey League, or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(ii) If an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to the amount of state tax revenue derived from the sale of admissions to all other events occurring at the indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the sports facility, parking charges, and related services. The amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iii) Notwithstanding the allocations provided for in subsection (a), if a franchise for a minor league affiliate of a major league baseball team (American or National League) playing at the Class AA level or higher locates in a municipality in this state and if the municipality constructs a new stadium for the franchise, then at such time as the franchise begins
operating in the new stadium, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the entity that is responsible for retirement of the debt on and maintenance of the stadium in the municipality equal to the amount of state and local tax revenue derived from the sale of admissions to games of the professional sports franchise, and also the sale of food and drink sold on the premises of the stadium used in conjunction with those games, parking charges, and related services, as well as the sale by the professional sports franchise, within the county in which the games take place, of authorized franchise goods and products associated with its operations as a professional sports franchise less local taxes collected in the year preceding the new stadium occupancy. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(iv) For the purpose of this subsection (d), “municipality” means any metropolitan government, incorporated city or county located in this state.

(v) Notwithstanding any provision of this subdivision (d)(1)(A) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(B) In lieu of distribution to any municipality, amounts derived from a National Football League franchise shall be earmarked and allocated specifically and exclusively to the general fund. In all cases, any distribution to a municipality as provided for by this subsection (d) shall be limited to a period of thirty (30) years, which shall be concurrent with the time limitation established by subdivision (d)(2). Following the expiration of this thirty-year period, all amounts that would have otherwise been distributed to the municipality or retained in lieu of distribution shall be allocated as provided elsewhere without regard to this subsection (d).

(C) Notwithstanding the allocations provided in subsection (a), if there exists in a municipality in this state a sports authority organized pursuant to title 7, chapter 67, and if a new motor sports facility locates in that municipality, and if the sports authority issues bonds or notes and uses the proceeds to assist with the development of such motor sports facility, including, but not limited to, the construction of roads, streets, highways, curbs, bridges, flood control facilities, and utility services, such as water, sanitary sewer, electricity, gas and natural gas, and telecommunications for such facility, then at such time as the new motor sports facility begins operating, and for a period of thirty (30) years thereafter, an amount shall be apportioned and distributed to the sports authority of that municipality, or other entity that is responsible for the retirement of the debt evidenced by such bonds or notes, equal to the amount of state and local tax revenue derived from the sale of admissions to events at such facility, and also the sale of food and drinks sold on the premises of such facility used in
conjunction with those events, parking charges, and related services, as well as the sale at such facility of souvenirs, memorabilia, and other goods and products associated with the operation of the facility. Such amount distributed shall be for the exclusive use of the sports authority, or comparable municipal agency, formally designated by the municipality in accordance with title 7, chapter 67. Notwithstanding this section, a sports authority and the municipality in which it is located may enter into an agreement under which all or any portion of the local tax revenue may be paid to the municipality for its exclusive use. For the purposes of this subdivision (d)(1)(C), “municipality” means any incorporated city or county located in the state of Tennessee. This subdivision (d)(1)(C) shall only be applicable if the cost of the acquisition of real property for such new motor sports facility, together with the costs of constructing and equipping the facility, exceeds forty million dollars ($40,000,000), incurred after January 1, 1999. The state portion of the tax revenue shall be distributed to the sports authority only if, at the date of such distribution, the sports authority has outstanding indebtedness due on such bonds or notes described in this subdivision (d)(1)(C).

(D) Notwithstanding the allocations provided for in subsection (a), if a baseball and softball complex, comprised of at least seventeen (17) baseball and softball fields and designed to host both local league play, as well as regional and national youth baseball and softball tournaments, is constructed adjacent to a stadium used by a franchise for a minor league affiliate of a major league baseball team, American or National League, playing at the Class AA level or higher, with respect to which an apportionment and distribution is made pursuant to subdivision (d)(1)(A), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on such baseball and softball complex, equal to the amount of state and local tax revenue derived from the sale of admissions to events at the baseball and softball complex and from the sale of food and drink and other authorized goods or products sold on the premises of the baseball and softball complex in conjunction with those events. This apportionment and distribution shall continue until the debt on the baseball and softball complex is retired. Such apportionment and distribution shall continue in the event the adjacent stadium ceases to house a minor league affiliate of a major league baseball team playing at the Class AA level or higher. Notwithstanding any provision of this subdivision (d)(1)(D) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(D). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(E)(i) Notwithstanding the allocations provided for in subsection (a), if a new convention center that qualifies as a public use facility under title 7, chapter 88 is constructed in a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal
census, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if such sales occur on the premises of the convention center or any related ancillary facilities, including, but not limited to, any tourism, theatre, retail business or commercial office space facilities or parking facilities. The apportionment and distribution shall begin at the time that the convention center begins operations and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner.

(ii) In addition to the distribution provided in subdivision (d)(1)(E)(i), if either one (1) or two (2) new hotels are constructed in connection with the construction of the convention center, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotels. The apportionment and distribution shall begin at the time that the convention center begins operations and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner. To be entitled to receive the distribution of state and local tax revenue under this subdivision (d)(1)(E)(ii), the entity responsible for the retirement of the debt on the convention center must first file with the department of finance and administration an application seeking certification that the construction of the hotels is directly related to the construction of the convention center. The department of finance and administration shall review the application to confirm whether the hotels meet the requirements of this subdivision (d)(1)(E)(ii). The department of finance and administration shall report its determination to the department of revenue, which shall administer this subdivision (d)(1)(E)(ii) accordingly.

(iii) In addition to the distribution provided in subdivisions (d)(1)(E)(i) and (ii), if a hotel within the footprint of the convention center, as determined by the commissioner of revenue and the commissioner of economic and community development, undertakes a significant capital improvement program in connection with the construction of the convention center, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the convention center and ancillary facilities equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink, and any other things or services subject to tax under this chapter, if the sales occur on the premises of the hotel. The apportionment and distribution shall begin at the time that the significant capital improvement program is substantially completed and shall continue for thirty (30) years, or until the debt on the convention center is retired, whichever is sooner. To be entitled to receive the distribution of state and local tax revenue under this subdivision (d)(1)(E)(iii), the entity responsible for the retirement of the debt on the convention center must
first receive certification from the commissioner of revenue and the commissioner of economic and community development, with the approval of the commissioner of finance and administration, that the capital improvement program is directly related to the construction of the convention center.

(iv) Notwithstanding any provision of this subdivision (d)(1)(E) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subdivision (d)(1)(E). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (d)(1).

(e) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this chapter, except revenue allocated pursuant to subdivision (c)(2), shall be earmarked and allocated in accordance with title 7, chapter 88.

(f) [Deleted by 2007 amendment, effective July 1, 2019.]

(g) The state sales tax received under this chapter from interstate telecommunications sold to businesses shall be distributed as follows:

1. The revenue from a rate equal to four percent (4%) of tax shall be deposited in the telecommunications ad valorem tax reduction fund created by § 67-6-222 and shall be determined based on data or information the commissioner deems relevant; and

2. Other revenue shall be deposited in the state general fund and allocated pursuant to subsections (a) and (c).

(h) [Contingent on funding. See the Compiler’s Notes.]

1. Notwithstanding the allocations provided for in subsection (a), there shall be apportioned and distributed to any county in which there is a state park containing approximately six thousand five hundred (6,500) acres, of which approximately four thousand (4,000) acres are an impounded reservoir, a portion of which is owned by the Tennessee Valley authority, over which an easement has been given to the state and the state has leased or otherwise conveyed its rights to the property to such county for development, an amount equal to the amount of state and local sales taxes derived from sales occurring within such property. Such amount distributed to the county shall be exclusively for retirement of the indebtedness incurred by such county for development of such property, to the same extent that such county may pledge any revenues of the county.

2.(A) Notwithstanding any provision of this subsection (h) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall
be apportioned and distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 529, § 9 of the Public Acts of 1992 and chapter 856, § 4 of the Public Acts of 2002.

(B) Notwithstanding any provision of this subsection (h) to the contrary, prior to any annual distribution pursuant to subdivision (h)(1), an amount equal to the state sales and use taxes collected within such area in fiscal year 2004-2005 shall be deposited in the treasury and allocated as otherwise provided by law.

(3) Prior to the issuance of any bonds for development of property subject to this subsection (h), the county legislative body shall submit its plan for development to the executive committee of the state building commission for such committee's review and recommendation to the state building commission.

(i)(1) Notwithstanding the provisions of this section to the contrary, revenue derived from state taxes imposed by this chapter shall be earmarked and allocated in accordance with the Courthouse Square Revitalization Pilot Project Act of 2005, compiled in title 6, chapter 59.

(2) Notwithstanding a repeal of title 6, chapter 59, any municipality receiving an allocation of state sales tax revenue on June 1, 2015, pursuant to title 6, chapter 59, shall continue to receive the allocation of the revenue until June 30, 2023. The allocation shall equal the amount of revenue derived from the state tax imposed by this chapter on the sale or use of goods, products and services within the courthouse square revitalization zone. For purposes of this subdivision (i)(2), “courthouse square revitalization zone” has the same meaning provided in § 6-59-102 and shall consist of the area that is included within the revitalization zone on June 1, 2015.

(3) No portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes, pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%), pursuant to chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (i). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002.

(j)(1) Notwithstanding the allocations provided for in subsection (a), if a new museum dedicated to coal mining is constructed in a county containing a spallation neutron source facility, then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of admission, parking, food, drink and any other things or services subject to tax under this chapter, if the sales occur on the premises of the museum. The apportionment and distribution shall begin at the time that the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(2)(A) In addition to the distribution provided in subdivision (j)(1), if a new hotel is constructed in connection with the construction of the museum and the hotel is located within one (1) mile of the museum's entrance, then an amount shall also be apportioned and distributed to the entity that is responsible for the retirement of the debt on the museum equal to the amount of state and local tax revenue derived under this chapter from the sale of lodging, parking, food, drink and any other things or services
subject to tax under this chapter, if the sales occur on the premises of the hotel. The apportionment and distribution shall begin at the time the museum begins operations and shall continue for thirty (30) years, or until the debt on the museum is retired, whichever is sooner.

(B) To be entitled to receive the distribution of state and local tax revenue under subdivision (j)(2)(A), the entity responsible for the retirement of the debt on the museum must first file with the department of finance and administration an application seeking certification that the construction of the hotel is directly related to the construction of the museum. The department of finance and administration shall review the application to confirm whether the hotel meets the requirements of this subdivision (j)(2). The department of finance and administration shall report its determination to the department of revenue, which shall administer this subdivision (j)(2) accordingly.

(3) Notwithstanding any provision of this subsection (j) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to the chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (j). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(k) Notwithstanding this section and any other law to the contrary, there is established a separate account in the local government fund to be known as the county revenue partnership fund. The apportionment of revenues to the fund and distributions from the fund shall be subject to the following provisions:

(1) Any apportionment of revenues to the county revenue partnership fund shall be allocated only from the revenues apportioned to the state general fund pursuant to subdivision (a)(1);

(2) Apportionment of revenues to the county revenue partnership fund may be made in any year pursuant to an allocation made in a specific dollar amount in the general appropriations act, and no apportionment shall otherwise be made to the fund; provided, however, that in fiscal years 2007-2008 and 2008-2009, no revenue shall be apportioned to the fund;

(3) The apportionment to and distributions from the county revenue partnership fund in any fiscal year shall not exceed the amount distributed to municipalities from the state sales tax pursuant to subdivision (a)(3)(A) in the previous fiscal year;

(4) In any fiscal year in which revenues are apportioned to the county revenue partnership fund, the revenue shall be allocated and distributed to all counties and metropolitan governments in this state monthly by the commissioner of finance and administration, in proportion as the population of each county or metropolitan government bears to the aggregate population of the state, according to the latest federal census or other censuses authorized by law;

(5) The county legislative body shall, on an annual basis, direct the trustee with regard to allocating and depositing the revenue from this fund among the various funds of the county budget; and

(6) In the state budget document, the county revenue partnership fund shall be listed in the report of revenue sources and basis of apportionment,
and the amount apportioned to the fund shall be stated in the distribution of revenues by fund for each year in the comparison statement of state revenues, regardless of whether any revenue is apportioned to the fund for a given fiscal year.

(l)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a performing arts center that consists of four (4) or more auditoriums, has a total seating capacity of five thousand four hundred (5,400) or more, and is operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), and if the performing arts center is located in facilities owned by the state or a political subdivision of the state, then an amount shall be apportioned and distributed to the entity that is responsible for operation and management of the performing arts center. A performing arts center may consist of two (2) or more performance venues with auditoriums located in two (2) or more buildings that are contiguous or in close proximity and are owned by the state or a political subdivision of the state. The amount apportioned and distributed pursuant to this subsection (l) shall be equal to the amount of state tax revenue derived under this chapter from the sale of tickets for admission to events held at the performing arts center; provided, however, that the apportionment and distribution shall be used exclusively for maintenance and improvement of the facilities in which the performing arts center is located, which shall include, but not be limited to, capital improvements, additions and renovations to the facilities and debt service on funds borrowed to pay for the improvements, additions and renovations. Debt service shall include principal and interest payments on existing and future debt obligations, including repayment to the exempt organization operating the facilities of funds advanced or loaned by the organization that were used or are used to pay the costs, in whole or in part, of the improvements, additions and renovations to the facilities.

(2) Notwithstanding subdivision (l)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (l). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(m)(1) Notwithstanding the allocations in subsection (a), except as provided in subdivision (m)(2), state tax revenue collected from commercial breeders licensed under the Commercial Breeder Act, compiled in title 44, chapter 17, part 7, shall be allocated to the Commercial Breeder Act enforcement and recovery account.

(2) Notwithstanding subdivision (m)(1), no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be allocated to the Commercial Breeder Act enforcement and recovery account. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the
Public Acts of 2002, respectively.

(n)(1) Notwithstanding the allocations provided for in subsection (a), if a hotel or inn that is more than one hundred fifty (150) years old is owned by a municipality and operated by an organization that has received a determination of exemption from the internal revenue service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), then an amount shall be apportioned and distributed to the entity that is responsible for the retirement of the debt incurred in renovating the hotel or inn. The amount apportioned and distributed pursuant to this subsection (n) shall be equal to the amount of state tax revenue derived under this chapter from the sale of goods and services on the premises of the hotel or inn; provided, however, that the apportionment and distribution shall be used exclusively for the retirement of debt incurred prior to April 1, 2009, including any interest thereon, in renovating the hotel or inn and shall continue only until the debt is retired.

(2) Notwithstanding subdivision (n)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (n). All such revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(o)(1) As used in this subsection (o), unless the context otherwise requires:

(A) “Best interests of the state” means a determination by the commissioner of revenue, with approval by the commissioner of economic and community development, that:

(i) The public improvements made within or adjacent to a mixed-use development are a result of the special allocation and distribution of state sales tax provided for in this subsection (o); and

(ii) The mixed-use development is a result of such public improvements;

(B) “Commercial development zone” means an area in which a mixed-use development is planned or located. To comprise a commercial development zone, the area:

(i) Must be located entirely within an eligible county;

(ii) Shall not exceed one thousand two hundred (1,200) acres; and

(iii) Must be located adjacent to a federally designated interstate highway;

(C) “Eligible county” means any county in which:

(i) At least twenty-five percent (25%) of the county consists of federally-owned land;

(ii) At least thirty and three-fifths percent (30.6%) of the county’s population, eighteen (18) years of age and younger, lives in poverty as determined by the United States census bureau, small area income and poverty estimates (SAIPE) program, or any comparable successor program, within the three-year period immediately preceding establishment of the commercial development zone; and

(iii) The federal highway administration has approved an interstate exit in close proximity to the area proposed for a commercial development zone, and such approval was based on the need to stimulate local...
economic development opportunities;

(D) “Mixed-use development” means an area, located entirely within an eligible county, containing not less than five hundred (500) acres nor more than one thousand two hundred (1,200) acres and includes, but is not limited to, property with commercial uses; and

(E) “Public improvements” means roads, streets, sidewalks, utility services, such as electricity, gas, water and sanitary sewer, and related services, parking facilities, parks, and all other necessary or desirable improvements to be used by the public in connection with a commercial development zone.

(2) Notwithstanding the allocations provided for in subsection (a), if an eligible county has good reason to anticipate that a private entity is willing to plan and develop a mixed-use development; and if the commissioner of revenue, with approval by the commissioner of economic and community development, determines that the special allocation of state sales tax, as authorized by this subsection (o), is in the best interests of the state, then the county legislative body may adopt a resolution designating a commercial development zone for such mixed-use development; provided, however, no county shall contain more than one (1) commercial development zone; and provided further, however, the county legislative body must adopt such resolution on or before June 30, 2011. If the county legislative body duly adopts such resolution, and if the county or an industrial development board, pursuant to subdivision (o)(3), issues bonds payable in whole or part from the tax revenues described herein and uses the proceeds to finance any development or public improvements constructed within or adjacent to the commercial development zone, then an amount shall be apportioned and distributed to such county for the retirement of debt evidenced by such bonds. The amount apportioned and distributed to the county pursuant to this subsection (o) shall equal the amount of state tax revenue derived under this chapter from sales of items and services subject to tax pursuant to this chapter, if the sales occur within the commercial development zone. The apportionment and distribution of such revenue shall begin upon the receipt of a certificate of occupancy for the first retail business operating within the commercial development zone and shall continue for a period of thirty (30) years, or until the debt, including any refunding debt, relating to the commercial development zone is retired, whichever is sooner.

(3) An eligible county in which a commercial development zone is duly located is authorized to delegate to any industrial development corporation incorporated by the county or a municipality within the county the authority to issue revenue bonds to finance development or public improvements within or adjacent to a commercial development zone; provided, that the county shall enter into an agreement with the industrial development corporation in which the county shall agree to promptly pay to the industrial development corporation the tax revenues described in this subsection (o). Upon receipt, such tax revenues shall be held in trust by the county for the benefit of the industrial development corporation.

(4) Notwithstanding any provision of subdivision (o)(2) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%)
contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (o). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(p)(1) Notwithstanding the allocations provided for in subsection (a), if there exists a zoo or aquarium that is accredited by the Association of Zoos and Aquariums and has received and currently holds a determination of exemption from the Internal Revenue Service under Internal Revenue Code § 501(c)(3), codified in 26 U.S.C. § 501(c)(3), then an amount shall be apportioned and distributed to the zoo or aquarium equal to the amount of state tax revenue derived under this chapter from the sale of tangible personal property or amusements on the premises of the zoo or aquarium; provided, however, that such apportionment and distribution shall be used exclusively for the operation of the zoo or aquarium, including, but not limited to, capital projects.

(2) Notwithstanding subdivision (p)(1) to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to chapter 529, § 9 of the Public Acts of 1992, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be apportioned and distributed pursuant to this subsection (p). The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(q) Notwithstanding § 7-40-106 to the contrary, no portion of the revenue derived from the increase in the rate of sales and use tax allocated to educational purposes pursuant to Acts 1992, chapter 529, § 9, and no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in Acts 2002, chapter 856, § 4, shall be distributed to the municipality. The revenue shall continue to be allocated as provided in chapter 529 of the Public Acts of 1992 and chapter 856 of the Public Acts of 2002, respectively.

(r) Notwithstanding the allocations provided for in subsection (a) and § 67-6-710, all moneys received and identified by the commissioner as moneys paid by out-of-state dealers acting in compliance under this chapter with any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988, shall be reported monthly by the commissioner and apportioned into special reserve accounts in the various funds that, pursuant to applicable statutes, share in the proceeds of sales tax collections. Interest earnings on the moneys collected shall be calculated by the division of accounts, department of finance and administration, and allocated monthly to the various fund reserve accounts. Such moneys shall remain in these reserve accounts and shall not revert at the end of any fiscal year; provided, however, such moneys shall be earmarked, allocated and become available for appropriation as otherwise provided in this chapter upon certification by the attorney general and reporter of the happening of any of the following:

(1) The final resolution of any contested case brought before the commissioner under the Uniform Administrative Procedures Act compiled in title 4, chapter 5, or suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017,
to give effect to Chapter 789 of the Public Acts of 1988;

(2) The effective date of a federal law enacted by the United States Congress to regulate the various states’ ability to require out-of-state dealers to collect the taxes imposed by this chapter, pursuant to its authority to regulate interstate commerce; or

(3) That no party has brought a contested case before the commissioner under the Uniform Administrative Procedures Act compiled in title 4, chapter 5, or a suit challenging application of any rule filed with the secretary of state on or after October 1, 2016, and effective on or before January 1, 2017, to give effect to Chapter 789 of the Public Acts of 1988; provided, however, that any certification under this subdivision (r)(3) shall not occur before June 30, 2018.

67-6-201. Taxable privilege declared. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

It is declared to be the legislative intent that every person is exercising a taxable privilege who:

(1) Engages in the business of selling tangible personal property at retail in this state;

(2) Uses or consumes in this state any item or article of tangible personal property as defined in this chapter, regardless of the ownership thereof or any tax immunity that may be enjoyed by the owner thereof;

(3) Is the recipient of any of the things or services taxable under this chapter;

(4) Rents or furnishes any of the things or services taxable under this chapter;

(5) Stores for use or consumption in this state any item or article of tangible personal property as defined in this chapter;

(6) Leases or rents such property, either as lessor or lessee, within the state of Tennessee;

(7) Charges admission, dues or fees taxable under this chapter;

(8) Sells space under this chapter;

(9) Charges a fee for subscription to, access to or use of television services provided by a video programming service provider; or

(10) Charges a fee for subscription to, access to or use of television services delivered by a provider of direct-to-home satellite service.

67-6-201. Taxable privilege declared. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

It is declared to be the legislative intent that every person is exercising a taxable privilege who:

(1) Engages in the business of selling tangible personal property at retail in this state;

(2) Uses or consumes in this state any item or article of tangible personal property as defined in this chapter, regardless of the ownership thereof or any tax immunity that may be enjoyed by the owner thereof;

(3) Is the recipient of any of the things or services taxable under this chapter;

(4) Rents or furnishes any of the things or services taxable under this chapter;
(5) Stores for use or consumption in this state any item or article of tangible personal property as defined in this chapter;
(6) Leases or rents such property, either as lessor or lessee, within the state of Tennessee;
(7) Charges admission, dues or fees taxable under this chapter;
(8) Sells space under this chapter;
(9) [Deleted by 2007 amendment, effective July 1, 2019.]
(10) [Deleted by 2007 amendment, effective July 1, 2019.]
(11) Charges a fee for subscription to, access to or use of television services provided by any electronic means, except for video programming services or direct-to-home satellite television services sold by persons subject to the tax in chapter 4, part 24 of this title; or
(12) Whether or not the person has a place of business in this state, delivers tangible personal property in this state, if the delivery is made to a consumer in this state or to another person, for redelivery to a consumer in this state pursuant to a retail sale made by the person to the consumer; provided, that this shall not be construed to impose a tax that is invalid either under the commerce clause or the due process clause of the United States constitution.

67-6-202. Property sold at retail. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) For the exercise of the privilege of engaging in the business of selling tangible personal property at retail in this state, a tax is levied on the sales price of each item or article of tangible personal property when sold at retail in this state; the tax is to be computed on gross sales for the purpose of remitting the amount of tax due the state and is to include each and every retail sale. The tax shall be levied at the rate of seven percent (7%). There is levied an additional tax at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property as defined in § 67-6-702(d). The tax levied at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property shall be in addition to all other taxes and shall be a state tax for state purposes only. No county or municipality or taxing district shall have the power to levy any tax on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-203, 67-6-204, 67-6-205, and 67-6-221 shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) This section levies a tax on the sales price of tangible personal property obtained from any vending machine or device.
67-6-202. Property sold at retail. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) For the exercise of the privilege of engaging in the business of selling tangible personal property at retail in this state, a tax is levied on the sales price of each item or article of tangible personal property when sold at retail in this state; the tax is to be computed on gross sales for the purpose of remitting the amount of tax due the state and is to include each and every retail sale. The tax shall be levied at the rate of seven percent (7%). There is levied an additional tax at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property as defined in § 67-6-702. The tax levied at the rate of two and three-quarters percent (2.75%) on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property shall be in addition to all other taxes and shall be a state tax for state purposes only. No county or municipality or taxing district shall have the power to levy any tax on the amount in excess of one thousand six hundred dollars ($1,600), but less than or equal to three thousand two hundred dollars ($3,200), on the sale or use of any single article of personal property.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-203, 67-6-204, 67-6-205, and 67-6-221 shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) This section levies a tax on the sales price of tangible personal property obtained from any vending machine or device.

67-6-203. Property used, consumed, distributed or stored. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) A tax is levied at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 of the purchase price of each item or article of tangible personal property when the tangible personal property is not sold, but is used, consumed, distributed, or stored for use or consumption in this state; provided, that there shall be no duplication of the tax.

(b) A tax, which shall be paid by the distributor, is also levied at the rate set out in subsection (a) on the value of catalogues, advertising fliers, or other advertising publications distributed to residents of Tennessee; provided, that this tax shall not be duplicative of a sales or use tax otherwise collected on such publications. “Distributor” does not include the commercial printer or mailer of any such catalogues, advertising fliers, or other advertising publications; nor shall nexus to a taxpayer be established through a relationship with a commercial printer or mailer having a presence in Tennessee; nor shall the commercial printer or mailer have the obligation of collecting any such tax.

(c) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-202, 67-6-204, 67-6-205, and 67-6-221 shall
remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

67-6-203. Property used, consumed, distributed or stored. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) A tax is levied at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 of the purchase price of each item or article of tangible personal property when the tangible personal property is not sold, but is used, consumed, distributed, or stored for use or consumption in this state; provided, that there shall be no duplication of the tax.
(b) [Deleted by 2007 amendment, effective July 1, 2019.]
(c) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in this section and §§ 67-6-202, 67-6-204, 67-6-205, and 67-6-221 shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

67-6-205. Services. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) There is levied a tax at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 on the sales price of all services taxable under this chapter.
(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in §§ 67-6-202, 67-6-203, 67-6-204, 67-6-221, and this section shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).
(c) The retail sale of the following services are taxable under this chapter:
   (1) The sale, rental or charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to persons for a consideration. The tax does not apply, however, to rooms, lodgings, or accommodations supplied to the same person for a period of ninety (90) continuous days or more; charges for or the value of the use of any time-share estate or perpetual interest in a trust, partnership, nonprofit corporation or limited liability company that has as its substantial purpose the ownership and control of real property; or charges for or amounts paid as a standard fee for the service of facilitating the exchange of one (1) time-share interval for another or the service of making a reservation for a time-share interval via a reservation system;
   (2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for such services made by the state and its political subdivisions when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot that is unattended and the charges are
collected by parking meters;

(3) The furnishing, for a consideration, of intrastate, interstate or international telecommunication services;

(4) The performing, for a consideration, of any repair services with respect to any kind of tangible personal property or computer software;

(5) The laundering or dry cleaning of any kind of tangible personal property, excluding coin-operated laundry, dry cleaning or car wash facilities, where a charge is made for the laundering or dry cleaning; provided, that this subdivision (c)(5) shall not apply to the bathing of animals provided by a licensed veterinarian when rendered for a medical purpose in conjunction with the practice of veterinary medicine, as defined in § 63-12-103;

(6) The installing of tangible personal property that remains tangible personal property after installation and the installing of computer software, where a charge is made for the installation, whether or not the installation is made as an incident to the sale of tangible personal property or computer software, and whether or not any tangible personal property or computer software is transferred in conjunction with the installation service;

(7) The enriching of uranium materials, compounds, or products that is performed on a cost-plus basis or on a toll enrichment fee basis;

(8) The renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis. This subdivision (c)(8) does not apply to the renting or providing of space to a craft fair, antique mall, or book fair or gun show, if the book fair or gun show is sponsored by a not-for-profit corporation. This subdivision (c)(8) also does not apply to the renting or providing of space at a flea market or the renting or providing of space at conventions, trade shows, or expositions, if the conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales; and

(9) The furnishing, for a consideration, of ancillary services.

67-6-205. Services. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) There is levied a tax at the rate of the tax levied on the sale of tangible personal property at retail by § 67-6-202 on the sales price of all services taxable under this chapter.

(b) Notwithstanding any other provision of law to the contrary, the one-half percent (0.5%) increase in the rate of the sales tax from five and one-half percent (5.5%) to six percent (6%) imposed by chapter 529 of the Public Acts of 1992 in §§ 67-6-202, 67-6-203, 67-6-204, 67-6-221, and this section shall remain in effect until changed by the general assembly. All revenue generated from such increases shall be deposited in the state general fund and earmarked for education purposes as provided in § 67-6-103(c)(2).

(c) The retail sale of the following services are taxable under this chapter:

(1) The sale, rental or charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to persons for a consideration. The tax does not apply, however, to rooms, lodgings, or accommodations supplied to the same person for a period
of ninety (90) continuous days or more; charges for or the value of the use of any time-share estate or perpetual interest in a trust, partnership, nonprofit corporation or limited liability company that has as its substantial purpose the ownership and control of real property; or charges for or amounts paid as a standard fee for the service of facilitating the exchange of one (1) time-share interval for another or the service of making a reservation for a time-share interval via a reservation system;

(2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for such services made by the state and its political subdivisions when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot that is unattended and the charges are collected by parking meters;

(3) The furnishing, for a consideration, of intrastate, interstate or international telecommunication services;

(4) The performing, for a consideration, of any repair services with respect to any kind of tangible personal property or computer software;

(5) The laundering or dry cleaning of any kind of tangible personal property, excluding coin-operated laundry, dry cleaning or car wash facilities, where a charge is made for the laundering or dry cleaning; provided, that this subdivision (c)(5) shall not apply to the bathing of animals provided by a licensed veterinarian when rendered for a medical purpose in conjunction with the practice of veterinary medicine, as defined in § 63-12-103;

(6) The installing of tangible personal property that remains tangible personal property after installation and the installing of computer software, where a charge is made for the installation, whether or not the installation is made as an incident to the sale of tangible personal property or computer software, and whether or not any tangible personal property or computer software is transferred in conjunction with the installation service;

(7) The enriching of uranium materials, compounds, or products that is performed on a cost-plus basis or on a toll enrichment fee basis;

(8) The renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis. This subdivision (c)(8) does not apply to the renting or providing of space to a craft fair, antique mall, or book fair or gun show, if the book fair or gun show is sponsored by a not-for-profit corporation. This subdivision (c)(8) also does not apply to the renting or providing of space at a flea market or the renting or providing of space at conventions, trade shows, or expositions, if the conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales;

(9) The furnishing, for a consideration, of ancillary services; and

(10) Charging a fee for subscription to, access to, or use of television services provided by any electronic means, except for video programming services or direct-to-home satellite television services sold by persons subject to the tax in chapter 4, part 24, of this title.
67-6-206. Industrial machinery and raw materials — Exemptions.
[Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) After June 30, 1983, no tax is due with respect to industrial machinery.
(b)(1) Tax at the rate of one percent (1%) is imposed with respect to water when sold to or used by manufacturers. Tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to gas, electricity, fuel oil, coal and other energy fuels when sold to or used by manufacturers.

(2) For the purpose of this subsection (b), “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale.

(3) The substances shall be exempt entirely from the taxes imposed by this chapter whenever it may be established to the satisfaction of the commissioner, by separate metering or otherwise, that they are exclusively used directly in the manufacturing process, coming into direct contact with the article being fabricated or processed by the manufacturer, and being expended in the course of the contact. Whenever the commissioner determines that the use of the substances by a manufacturer meets the test, the commissioner shall issue a certificate evidencing the entitlement of the manufacturer to the exemption. A copy of the certificate issued by the commissioner or a fully completed Streamlined Sales Tax certificate of exemption, which must include the manufacturer’s exemption authorization number included on the certificate issued by the commissioner, shall be furnished by the manufacturer to the manufacturer’s supplier of the exempt substances. The certificate may be revoked by the commissioner at any time upon a finding that the conditions precedent to the exemption no longer exist.

(4) Any water or energy fuel used by a manufacturer in fabricating or processing tangible personal property for resale shall be exempt entirely from the taxes imposed by this chapter when the water or energy fuel are produced or extracted directly by the manufacturer from facilities owned by the manufacturer or in the public domain.

(5) Notwithstanding the requirement of direct contact, there shall be exempt entirely from the tax imposed by this chapter electricity used to generate radiant heat for production of heat-treated glass when sold to or used by manufacturers; provided, that the manufacturer has applied for and received a certificate of exemption as required by this section. The person shall furnish to that person’s supplier of the substance a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption, which must include the manufacturer’s exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(6)(A) Notwithstanding subdivisions (b)(1)-(5), the reduced rates provided by subdivision (b)(1) shall apply to the use of such substances by a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation, such that:

(i) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(ii) One hundred percent (100%) of the capital stock of both corpora-
tions is directly owned or controlled by a common parent.

(B) “Packaging”, as used in this subdivision (b)(6), refers only to the fabrication and/or installation of that packaging that will accompany the automotive aftermarket product when sold at retail. The reduced rates shall apply only to such substances used in the packaging process. Such use must be established to the satisfaction of the commissioner by separate metering or otherwise. To qualify for the reduced rate under this subdivision (b)(6), a person shall apply for and receive a certificate of qualification for the reduced rate from the commissioner. The person shall furnish to that person’s supplier of the substances a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the reduced rate.

(7) Notwithstanding the requirement of direct contact, natural gas used to generate heat for the production of primary aluminum, aluminum sheet and foil, and aluminum can sheet products when sold to or used by manufacturers shall be exempt entirely from the tax imposed by this chapter; provided, that the manufacturer applies for and receives a certificate of exemption as required by this section. Nothing shall be inferred from this subdivision (b)(7) as to the law in effect prior to this change.

(8) Notwithstanding subdivision (b)(2), the term “manufacturer” does not include any person whose principal business is the preparation of food for immediate retail sale.

(c)(1) Tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to electricity when sold to or used by a qualified data center.

(2) No tax is imposed with respect to cooling equipment or backup power infrastructure when sold to or used by a qualified data center.

(3) As used in subdivision (c)(2):

(A) “Backup power infrastructure” means backup power generation, battery systems, and related infrastructure used primarily for and necessary to the operations of a qualified data center; and

(B) “Cooling equipment” means cooling systems, cooling towers, and other temperature control infrastructure used primarily for and necessary to the operations of a qualified data center.

(d) Any qualified data center that applies for job tax credits under § 67-4-2109 must certify on its business plan that it has not, within the previous twelve (12) months, been found to be in violation of the Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C. §§ 2101-2109), the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), or federal immigration laws. Any qualified data center that fails to provide the required certification shall not qualify for job tax credits under § 67-4-2109.

67-6-206. Industrial machinery and raw materials — Exemptions.

[Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) After June 30, 1983, no tax is due with respect to industrial machinery.

(b)(1) No tax is imposed with respect to water when sold to or used by manufacturers. No tax is imposed with respect to gas, electricity, fuel oil, coal and other energy fuels when sold to or used by manufacturers.
(2)(A) For the purpose of this subsection (b), “manufacturer” means one whose principal business is fabricating or processing tangible personal property for resale and also includes a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(i) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(ii) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(B) “Packaging”, as used in this subdivision (b)(2), refers only to the fabrication or installation, or both, of that packaging that will accompany the automotive aftermarket product when sold at retail. The exemption shall apply only to the substances used in the packaging process. That use must be established to the satisfaction of the commissioner by separate metering or otherwise.

(3) To qualify for the exemption under this section, a person shall apply for and receive a certificate of qualification for the exemption from the commissioner for each location that the person qualifies as a manufacturer or qualified data center. The person shall furnish to vendors and suppliers of the purchases either a copy of the certificate issued by the commissioner or a Streamlined Sales Tax certificate of exemption, which shall include the manufacturer’s exemption authorization number included on the certificate issued by the commissioner, to evidence qualification for the exemption.

(4) Notwithstanding subdivision (b)(2), “manufacturer” shall not include any person whose principal business is the preparation of food for immediate retail sale.

(5) [Deleted by 2007 amendment, effective July 1, 2019.]

(6) [Deleted by 2007 amendment, effective July 1, 2019.]

(7) [Deleted by 2007 amendment, effective July 1, 2019.]

(8) [Deleted by 2007 amendment, effective July 1, 2019.]

(c)(1) Tax at the rate of one and one-half percent (1.5%) shall be imposed with respect to electricity when sold to or used by a qualified data center.

(2) No tax is imposed with respect to cooling equipment or backup power infrastructure when sold to or used by a qualified data center.

(3) As used in subdivision (c)(2):

(A) “Backup power infrastructure” means backup power generation, battery systems, and related infrastructure used primarily for and necessary to the operations of a qualified data center; and

(B) “Cooling equipment” means cooling systems, cooling towers, and other temperature control infrastructure used primarily for and necessary to the operations of a qualified data center.

(d) Any qualified data center that applies for job tax credits under § 67-4-2109 must certify on its business plan that it has not, within the previous twelve (12) months, been found to be in violation of the Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C. §§ 2101-2109), the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.), or federal immigration laws. Any qualified data center that fails to provide the required certification shall not qualify for job tax credits under § 67-4-2109.
67-6-209. Use of property produced or severed from earth — Exemptions. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, that the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, other than:

(1) Any material severed from the earth and moved from one (1) place to another on the same construction or job site; and

(2) Dirt, soil, earth or any other kind of material when used for fill, whether from the same construction or job site or elsewhere;

such person so using the tangible personal property shall pay the tax levied in this section on the fair market value of such tangible personal property when used, without any deductions whatsoever; provided, that this subsection (a) shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property that becomes a component part of a building, and that is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor defined in this chapter as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, except where the title holder is a church, private nonprofit college or university and the tangible personal property is for church, private nonprofit college or university construction, such contractor or subcontractor shall pay a tax at the rate prescribed by § 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid. The exemption provided for in this subsection (b) for private nonprofit colleges or universities shall apply only to the state portion of the sales tax. The sales or use tax levied by this chapter shall not apply to carpet installed for a church when the church is exempt from sales or use taxes under § 67-6-322.

(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in § 67-6-102(37), and the contractor shall not be permitted on this basis to obtain the benefit of any exemptions or reduced tax rates available to manufacturers under § 67-6-102(44)(E) or § 67-6-206. Each location of a taxpayer will be considered separately in determining whether the taxpayer qualifies or is disqualified as a manufacturer at that location.

(d) The tax imposed by this section or by any other provision of this chapter shall have no application with respect to the use by, or the sale to, a contractor or subcontractor of atomic weapon parts, source materials, special nuclear materials and by-product materials, all as defined by the Atomic Energy Act of 1954, compiled in 42 U.S.C. § 2011 et seq., or with respect to such other materials as would be excluded from taxation as industrial materials under § 67-6-102(44)(E), when the items referred to in this subsection (d) are sold or
leased to a contractor or subcontractor for use in, or experimental work in connection with, the manufacturing processes for or on behalf of the atomic energy commission or when any of such items are used by a contractor or subcontractor in such experimental work or manufacturing processes.

(e) There is exempt from this chapter the sale or use of materials and equipment purchased or used for construction or installation, by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant or distribution system, any resource recovery facility where steam or electric energy is produced, or any coal gasification plant or distribution system owned or operated by the United States or any agency thereof created by an act of congress, or by the state of Tennessee or any agency or political subdivision thereof, or any authority organized pursuant to the Rural Electric and Community Services Cooperative Act, compiled in title 65, chapter 25, part 2.

There is also exempt the sale or use of materials and equipment purchased or used for construction or installation by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant, including the transmission substation, owned or operated by any person, so long as such person does not now or intend in the future to generate electricity from a plant located in Tennessee or to distribute electricity to consumers in Tennessee.

(f) There is exempt from the tax imposed by this section or any other provision of this chapter pipes, fittings and materials used to repair or maintain a water utility system owned by a utility district created pursuant to title 7, chapter 82. This exemption applies only to pipes, fittings and materials which become an integral part of the water utility system. This exemption does not apply to any installation of pipes, fittings or materials for any reason other than repair or maintenance of an existing system.

(g) There is exempt from the tax imposed by this section tangible personal property that:

1. Is installed by a dealer in manufactured homes, or furnished to a contractor by the dealer for use in the installation of a manufactured home; and

2. Has previously been subjected to the tax imposed by § 67-6-216.

(h) There is exempt from the tax imposed by this chapter any tangible personal property owned by the United States, or any agency thereof, that is provided to a contractor or subcontractor on a temporary basis for testing pursuant to a contract awarded by the United States, or any agency thereof, to such contractor or subcontractor under the Small Business Innovation Research Program, as that term is defined in 15 U.S.C. § 638(e)(4). The exemption provided by this subsection (h) shall apply only to property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. The exemption provided by this subsection (h) shall not apply to any equipment, machinery or other property used to conduct the test.

(i) There is exempt from the tax imposed by this chapter any tangible personal property that is provided to a contractor or subcontractor on a temporary basis for testing; provided, that the exemption shall apply only in those instances where the facility at which the testing is undertaken is owned by the United States or any agency of the United States. The exemption provided by this subsection (i) shall apply only to the property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. Under no circumstances
shall the exemption apply to property used to conduct the test or to property consumed or destroyed during the test. For this purpose, the term “testing” shall be limited to diagnostic, analytical and scientific testing in a controlled environment, dedicated to testing for the purpose of providing information and findings supportive of the aerodynamic, hypersonic, aeropropulsion, space, missile, aircraft and aerospace technologies and industries.

67-6-209. Use of property produced or severed from earth — Exemptions. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) Where a manufacturer, producer, compounder or contractor erects or applies tangible personal property, that the manufacturer, producer, compounder or contractor has manufactured, produced, compounded or severed from the earth, other than:

1. Any material severed from the earth and moved from one (1) place to another on the same construction or job site; and

2. Dirt, soil, earth or any other kind of material when used for fill, whether from the same construction or job site or elsewhere; such person so using the tangible personal property shall pay the tax levied in this section on the fair market value of such tangible personal property when used, without any deductions whatsoever; provided, that this subsection (a) shall not be construed to apply to contractors or subcontractors who fabricate, erect or apply tangible personal property that becomes a component part of a building, and that is not sold by them as a manufactured item.

(b) Where a contractor or subcontractor defined in this chapter as a dealer uses tangible personal property in the performance of the contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the title holder of such property would be subject to pay the sales or use tax, except where the title holder is a church, private nonprofit college or university and the tangible personal property is for church, private nonprofit college or university construction, such contractor or subcontractor shall pay a tax at the rate prescribed by § 67-6-203 measured by the purchase price of such property, unless such property has been previously subjected to a sales or use tax, and the tax due thereon has been paid. The sales or use tax levied by this chapter shall not apply to carpet installed for a church when the church is exempt from sales or use taxes under § 67-6-322.

(c) The tax imposed by this section shall have no application where the contractor or subcontractor, and the purpose for which such tangible personal property is used, would be exempt from the sales or use tax under any other provision of this chapter. However, the transfer of tangible personal property by a contractor who contracts for the installation of such tangible personal property as an improvement to realty does not constitute a sale, except as provided in § 67-6-102(39), and the contractor shall not be permitted on this basis to obtain the benefit of any exemptions or reduced tax rates available to manufacturers under § 67-6-102(46)(E) or § 67-6-206. Each location of a taxpayer will be considered separately in determining whether the taxpayer qualifies or is disqualified as a manufacturer at that location.

(d) The tax imposed by this section or by any other provision of this chapter
shall have no application with respect to the use by, or the sale to, a contractor or subcontractor of atomic weapon parts, source materials, special nuclear materials and by-product materials, all as defined by the Atomic Energy Act of 1954, compiled in 42 U.S.C. § 2011 et seq., or with respect to such other materials as would be excluded from taxation as industrial materials under § 67-6-102(46)(E), when the items referred to in this subsection (d) are sold or leased to a contractor or subcontractor for use in, or experimental work in connection with, the manufacturing processes for or on behalf of the atomic energy commission or when any of such items are used by a contractor or subcontractor in such experimental work or manufacturing processes.

(e) There is exempt from this chapter the sale or use of materials and equipment purchased or used for construction or installation, by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant or distribution system, any resource recovery facility where steam or electric energy is produced, or any coal gasification plant or distribution system owned or operated by the United States or any agency thereof created by an act of congress, or by the state of Tennessee or any agency or political subdivision thereof, or any authority organized pursuant to the Rural Electric and Community Services Cooperative Act, compiled in title 65, chapter 25, part 2. There is also exempt the sale or use of materials and equipment purchased or used for construction or installation by a contractor, subcontractor or otherwise, of, in or as a part of any electric generating plant, including the transmission substation, owned or operated by any person, so long as such person does not now or intend in the future to generate electricity from a plant located in Tennessee or to distribute electricity to consumers in Tennessee.

(f) There is exempt from the tax imposed by this section or any other provision of this chapter pipes, fittings and materials used to repair or maintain a water utility system owned by a utility district created pursuant to title 7, chapter 82. This exemption applies only to pipes, fittings and materials which become an integral part of the water utility system. This exemption does not apply to any installation of pipes, fittings or materials for any reason other than repair or maintenance of an existing system.

(g) There is exempt from the tax imposed by this section tangible personal property that:

1. Is installed by a dealer in manufactured homes, or furnished to a contractor by the dealer for use in the installation of a manufactured home; and

2. Has previously been subjected to the tax imposed by § 67-6-216.

(h) There is exempt from the tax imposed by this chapter any tangible personal property owned by the United States, or any agency thereof, that is provided to a contractor or subcontractor on a temporary basis for testing pursuant to a contract awarded by the United States, or any agency thereof, to such contractor or subcontractor under the Small Business Innovation Research Program, as that term is defined in 15 U.S.C. § 638(e)(4). The exemption provided by this subsection (h) shall apply only to property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. The exemption provided by this subsection (h) shall not apply to any equipment, machinery or other property used to conduct the test.

(i) There is exempt from the tax imposed by this chapter any tangible personal property that is provided to a contractor or subcontractor on a
temporary basis for testing; provided, that the exemption shall apply only in those instances where the facility at which the testing is undertaken is owned by the United States or any agency of the United States. The exemption provided by this subsection (i) shall apply only to the property that is the subject of the test being performed and property into which the subject of the test must be incorporated before the testing can occur. Under no circumstances shall the exemption apply to property used to conduct the test or to property consumed or destroyed during the test. For this purpose, the term “testing” shall be limited to diagnostic, analytical and scientific testing in a controlled environment, dedicated to testing for the purpose of providing information and findings supportive of the aerodynamic, hypersonic, aeropropulsion, space, missile, aircraft and aerospace technologies and industries.

67-6-217. Aviation fuel — Tax imposed — Advisory task force. [Effective until July 1, 2019.]

(a) Notwithstanding other provisions of this chapter, tax imposed with respect to the sale, the use, the consumption, the distribution and the storage of aviation fuel that is actually used in the operation of airplane or aircraft motors, shall be at the rate of four and one-half percent (4.5%).

(b)(1) The tax imposed and remitted on a person’s purchase, use, consumption, or storage of aviation fuel pursuant to subsection (a) shall not exceed the following:

(A) Twenty-one million three hundred seventy-five thousand dollars ($21,375,000) for the period of July 1, 2015 through June 30, 2016;

(B) Seventeen million seven hundred fifty thousand dollars ($17,750,000) for the period of July 1, 2016 through June 30, 2017;

(C) Fourteen million one hundred twenty-five thousand dollars ($14,125,000) for the period of July 1, 2017 through June 30, 2018; and

(D) Ten million five hundred thousand dollars ($10,500,000) for any tax year occurring on or after July 1, 2018.

(2) For purposes of this subsection (b), “tax year” means a period beginning on July 1 and ending on the following June 30. The commissioner shall establish a process for applying the cap provided by subdivision (b)(1).

(c)(1) By no later than July 1, 2015, the speaker of the senate, the speaker of the house of representatives, and the governor shall establish an advisory task force to study revenue measures regarding the operation of aircraft and airport facilities in this state, the funding available to airports from the Transportation Equity Fund (TEF), and the effect of such funding on the needs of the air carrier and general aviation airports.

(2) The advisory task force shall consist of fifteen (15) members as follows:

(A) Three (3) members shall be appointed by the speaker of the senate;

(B) Three (3) members shall be appointed by the speaker of the house of representatives;

(C) The commissioner of economic and community development who shall serve as chair and shall convene the first meeting of the task force;

(D) The commissioner of transportation, or the commissioner’s designee;

(E) The commissioner of finance and administration, or the commissioner’s designee;

(F) The chair of the transportation and safety committee of the senate;
(G) The chair of the transportation committee of the house of representatives;

(H) Two (2) members representative of the Tennessee Aviation Association (TAA), to be appointed by the governor; and

(I) Two (2) members representative of the Tennessee Association of Air Carrier Airports (TAACA), to be appointed by the governor.

(3) The task force shall report its findings and recommendations to the chair of the transportation and safety committee of the senate, and the chair of the transportation committee of the house of representatives by no later than February 1, 2016. The task force shall cease to exist upon completion of the task force’s report and recommendations.

(4) The legislative members shall be compensated in accordance with § 3-1-106. The remaining members of the task force shall serve without compensation but shall be entitled to reimbursement of any travel expenses incurred. All reimbursement for travel shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

67-6-219. Sales of tangible personal property to common carriers for use outside state. [Effective until July 1, 2019.]

(a) Notwithstanding other provisions of this chapter, tax is imposed with respect to sales of tangible personal property to common carriers for use outside this state at the rate of three and seventy-five hundredths percent (3.75%).

(b) Persons seeking to make purchases at the reduced rate provided in this section shall apply to the commissioner for a certificate as provided in § 67-6-528. In order to obtain the reduced tax rate, a copy of the certificate provided for by this section or a fully completed Streamlined Sales Tax certificate of exemption shall be given by the common carrier to each dealer from which it intends to make purchases at the reduced rate.

(c) If a common carrier purchases property at the reduced rate and the property is used inside the state or the common carrier fails to keep records as required by the commissioner to establish that property purchased at the reduced rate was not used in this state, but was removed from this state for use and consumption outside this state, then the common carrier shall be liable for tax at the full rate provided by § 67-6-203, regardless of whether the carrier had previously obtained a certificate as provided by this section.

(d) This section does not apply to sales of food and food ingredients, alcoholic beverages, tobacco, candy, dietary supplements, prepared food or fuel.

67-6-221. Tax imposed on interstate or international telecommunication services sold to businesses — Privilege tax imposed on modern market telecommunications providers — Penalty. [Effective until July 1, 2019.]

(a) Notwithstanding any other provision of the law to the contrary, interstate or international telecommunication services sold to businesses shall be subject to a tax imposed at the rate of seven and one-half percent (7.5%).

(b) The revenue from a rate equal to one-half percent (0.5%) of the tax shall be deposited in the general fund. The remainder of the revenue generated from
the tax imposed by subsection (a) shall be distributed to municipalities and counties in accordance with subsection (c) to mitigate the impact on local governments as the result of assessing the operating property of modern market telecommunications providers as commercial and industrial property rather than as public utility property. The department of revenue shall hold all such revenue until it is first distributed to the local governments on March 20, 2018, or as soon thereafter as possible, to allow sufficient time to determine the correct distribution of revenue under subsection (c).

(c) On or before January 1, 2018, the office of state assessed properties in the office of the comptroller of the treasury shall calculate, for each local government levying an ad valorem property tax, the difference in property tax revenue or comparable in lieu of tax payments received for tax year 2017 that results from assessing the operating property of modern market telecommunications providers as commercial and industrial property rather than as public utility property. These calculations shall be used to calculate each local government’s percentage share of the total reduction in such revenue for tax year 2017 and these percentages shall be forwarded to the department of revenue by January 1, 2018. For all periods beginning on or after June 1, 2017, the department shall distribute the revenue generated from the tax imposed under subsection (a), other than the revenue earmarked for the general fund under subsection (b), to the local governments in proportion to each local government’s percentage share of the total difference in property tax and in lieu of tax revenue for tax year 2017, as reported to the department by the office of state assessed properties pursuant to this subsection (c).

(d)(1) Beginning January 1, 2018, notwithstanding any law to the contrary, every modern market telecommunications provider shall pay an annual privilege tax for the privilege of competing with public utilities to provide telecommunications services in this state.

(2) Except as otherwise provided in subdivision (d)(3), the amount of tax imposed under this subsection (d) shall be equal to the sum of:

(A) The taxpayer’s pro rata share percentage multiplied, as applicable, by:

(i) Four million dollars ($4,000,000), for the tax imposed in 2018;
(ii) Three million dollars ($3,000,000), for the tax imposed in 2019;
(iii) Two million dollars ($2,000,000), for the tax imposed in 2020;
(iv) One million dollars ($1,000,000), for the tax imposed in 2021; and
(v) Zero dollars ($0.00), for the tax imposed in 2022; and

(B) The taxpayer’s pro rata share percentage multiplied, as applicable, by:

(i) Seven hundred fifty thousand dollars ($750,000), for the tax imposed in 2018, 2019, and 2020; and
(ii) Five hundred thousand dollars ($500,000), for the tax imposed in 2021 and 2022.

(3) The total privilege tax imposed on a taxpayer under this subsection (d) shall not exceed the difference between:

(A) The aggregate ad valorem taxes and in lieu of tax payments paid by such taxpayer to political subdivisions of this state during the prior tax year; and

(B) The net amount of ad valorem tax and in lieu of tax payments such taxpayer would have paid in the prior tax year had its operating property been classified as public utility property, less the amount of the most
recent payment such taxpayer received under § 67-6-222(b).

(4) Any taxpayer claiming that subdivision (d)(3) applies to limit its privilege tax liability for a particular tax year shall notify the department of revenue of such claim in the manner prescribed by the department and must prove by clear and convincing evidence that such limitation applies.

(5) The privilege tax shall be reported and paid annually to the department of revenue on or before April 20 of each year in the manner prescribed by the department. On or before March 1, 2018, the department shall coordinate with the office of state assessed properties in the office of the comptroller of the treasury to calculate the pro rata share percentage of each taxpayer subject to the privilege tax imposed by this subsection (d) and shall send notice to each such taxpayer providing the taxpayer with its pro rata share percentage and prescribing the manner in which the taxpayer must report and pay the privilege tax imposed by this subsection (d).

(6) Notwithstanding any law to the contrary, all moneys received by the department of revenue under this subsection (d) shall be distributed in the following manner:

(A) The revenue from the portion of the tax calculated under subdivision (d)(2)(A) shall be deposited in the general fund; and

(B) The revenue from the portion of the tax calculated under subdivision (d)(2)(B) shall be distributed to the local governments in the same proportion that revenue is distributed to local governments under subsection (e).

(7) Any moneys received from a taxpayer that prove by clear and convincing evidence that the limit set forth in subdivision (d)(3) applies for a particular tax year shall be deposited in the general fund and distributed to the local governments in the same relative proportion as those moneys would have been deposited in the general fund under subdivision (d)(6)(A) and distributed to the local governments under subdivision (d)(6)(B) in the same tax year if the limitation on privilege tax liability had not applied.

(8) This subsection (d) shall be repealed on December 31, 2022. No privilege tax shall be levied under this subsection (d) after December 31, 2022. This subdivision (d)(8) shall not absolve any taxpayer of liability for any tax levied under this subsection (d) prior to December 31, 2022.

(9) This subsection (d) shall not apply to a municipal or similar provider of broadband services that makes in lieu of tax payments pursuant to title 7, chapter 52, part 4 or 6, or that makes similar in lieu of tax payments pursuant to a private act.

(e) When any person fails to correctly report on a return the person's sales of interstate or international telecommunications services subject to tax under subsection (a), there shall be imposed a penalty in the amount of ten percent (10%) of the taxes due on such sales or twenty-five percent (25%) of the taxes due on such sales if the commissioner determines that the failure to correctly report such sales is the result of gross negligence. The commissioner may waive such penalty, in whole or in part, if the commissioner determines that the failure is not due to gross negligence, intentional disregard for any tax law or rule promulgated under this title, or fraud.

(f) As used in this section:

(1) “Modern market telecommunications provider” means a modern market telecommunications provider, as defined in § 67-5-501, that was operating within the state as of January 1, 2017, and that received an ad valorem tax equity payment under § 67-6-222(b) in at least one (1) of the three (3)
years prior to January 1, 2017; and

(2) “Pro rata share percentage” means a taxpayer’s pro rata share of the total assessed value of all operating property used by modern market telecommunications providers in the state during tax year 2017.

67-6-222. Telecommunications ad valorem tax reduction fund — Discontinuance.

(a)(1) There is created in the state treasury a special fund to be known as the telecommunications ad valorem tax reduction fund, which shall be administered by the comptroller of the treasury. The moneys in the fund shall be used solely and exclusively to pay the expenses incurred by the comptroller of the treasury in administering the fund and implementing subsection (b) and to make the ad valorem tax equity payments authorized by subsection (b). The moneys in the fund shall be invested in the same manner as the moneys in the state general fund. Interest earned on investment of moneys in the fund shall be deposited in and credited to the fund.

(2) On or before June 1, 2007, and on or before June 1 of each year thereafter, any moneys in the telecommunications ad valorem tax reduction fund as of March 1 of each year that are in excess of the amount necessary to make the payments pursuant to subsection (b) shall be deposited into the state general fund and allocated pursuant to § 67-6-103(a).

(b)(1)(A) Pursuant to the rules of this subsection (b), every person providing telecommunications services subject to tax under this chapter shall be entitled to an ad valorem tax equity payment in an amount equal to the sum of:

(i) Twenty-seven and twenty-seven hundredths percent (27.27%) of the aggregate ad valorem taxes paid to political subdivisions of this state relating to property assessed with a lien date on or after January 1, 2002, with respect to such person’s public utility property, as defined in § 67-5-501(8)(B), which is real property; and

(ii) Forty-five and forty-five hundredths percent (45.45%) of the aggregate ad valorem taxes paid to political subdivisions of this state relating to property assessed with a lien date on or after January 1, 2002, with respect to such person’s public utility property, as defined in § 67-5-501(8)(B), that is personal property.

(B) The payment allowed by this subsection (b) shall be based on the date that the respective ad valorem taxes are paid, regardless of the date on which such taxes were originally due.

(2) On or before May 1, 2007, and on or before May 1 of each year thereafter, every telephone company entitled to a payment under this subsection (b) shall notify the comptroller of the treasury in writing of the amount of such payment and the basis for claiming such payment.

(3) On or before June 1, 2007, and on or before June 1 of each year thereafter, the comptroller of the treasury shall make all payments allowed by this subsection (b). If the comptroller of the treasury fails to make such payment within the time prescribed, the telephone company entitled to such payment may file suit against the comptroller of the treasury in chancery court in the appropriate county in this state.

(4) The amount of the payments made pursuant to this subsection (b) in any year shall be limited to the amount contained in the telecommunications
ad valorem tax reduction fund on March 1 of such year, after deduction for the reasonable administrative expenses incurred by the comptroller of the treasury. To the extent that the amount contained in the telecommunications ad valorem tax reduction fund, after deduction for the comptroller of the treasury’s reasonable administrative expenses, does not equal or exceed the total amount of payments allowed by this subsection (b) such payments shall be proportionately reduced by the amount of the shortfall. The comptroller of the treasury shall determine the amount of any reductions pursuant to this subdivision (b)(4).

(5) In the event that the ad valorem tax liability of a company is reduced for any year with respect to which such company has received an ad valorem tax equity payment pursuant to this section, thereby entitling such company to a refund of ad valorem taxes, such company shall repay the portion of such ad valorem tax equity payment attributable to such reduction within sixty (60) days of receiving notice of such reduction. All such repayments shall be credited to the ad valorem tax reduction fund.

(c) The telecommunications ad valorem tax reduction fund created by this section is discontinued effective June 2, 2017, subject to the following:

(1) On or before June 1, 2017, the comptroller of the treasury shall make all payments that are required by subsection (b). Any moneys remaining in the telecommunications ad valorem tax reduction fund as of June 1, 2017, that are in excess of the amount necessary to make the payments must be allocated pursuant to § 67-6-103(a); and

(2) No person is entitled to any payment under subdivision (c)(1), unless the payment is claimed on or before May 1, 2017.

(d) [Deleted by 2013 amendment, effective March 26, 2013.]

67-6-226. Sales tax on cable and wireless cable television services. [Effective until July 1, 2019.]

Notwithstanding other provisions of this chapter to the contrary, commencing on September 1, 1999, state tax at the rate of eight and one-quarter percent (8.25%) on each sale at retail is imposed with respect to fees for subscription to, access to, or use of television programming or television services provided by a video programming service provider offered for public consumption, except such state tax shall not apply to television programming or television service charges or fees in an amount less than fifteen dollars ($15.00) provided by a video programming service provider offered for public consumption.

67-6-227. Sales tax on satellite television services. [Effective until July 1, 2019.]

Notwithstanding other provisions of this chapter to the contrary, state tax at the rate of eight and one-quarter percent (8.25%) on each sale at retail is imposed with respect to fees for subscription to, access to, or use of television programming or television services delivered by a provider of direct-to-home satellite service.

67-6-228. Food retail sales tax.

(a) Notwithstanding any provision of this part to the contrary, except as otherwise provided in subsection (b), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of four percent (4%) of the
sales price.

(b) The retail sale of food and food ingredients sold as prepared food, alcoholic beverages, candy, dietary supplements and tobacco shall be taxed at the rate levied on the sale of tangible personal property at retail by § 67-6-202.

67-6-313. Interstate commerce — Repair services — Tax credit.  
[Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state or produced or manufactured in this state for export.

(b) There is exempt from the sales and use tax repair services, including parts and labor, with respect to qualified tangible personal property, where such services are initiated or completed, or both, by a repair person within the state of Tennessee, and where such property, after having repair services performed on it, is delivered or shipped outside the state of Tennessee. “Qualified tangible personal property” includes machinery, apparatus and equipment, with all associated parts, appurtenances and accessories, that is necessary for:

1. Extracting or removing any natural resources, including, but not limited to, that which is necessary for mining or logging endeavors;
2. Building or improving roads or highways;
3. Land clearing or excavation, or commercial or residential construction; or
4. Loading and unloading of containers or truck trailers on and off rail cars, ships, barges or aircraft.

(c)(1) There is exempt from the sales and use tax all repair service labor performed with respect to aircraft engine equipment and aircraft mainframes, where the repair services on such aircraft engine equipment or aircraft mainframes are initiated, performed or completed in repair facilities within the state of Tennessee.

2. For the purposes of this subsection (c):

A. “Aircraft engine equipment” means any aircraft engine, including all associated parts, appurtenances and accessories, for the propulsion of aircraft used by a commercial interstate or international air carrier;

B. “Aircraft mainframes” means any aircraft body, wing, tail assembly, aileron, rudder, landing gear, engine housing, and any other assembly or component integral to the aerodynamic structure of aircraft used by a commercial interstate or international air carrier; and

C. “Repair service labor” includes all labor performed in connection with the repair, maintenance, overhauling, rebuilding, or modifying of aircraft engine equipment or of aircraft mainframes together with any test or inspection necessary or appropriate thereto.

(d) There is exempt from the sales and use tax repair services, including parts and labor, to equipment used primarily in interstate commerce, where such repairs are performed outside of Tennessee and the original purchase of such equipment was exempt from sales and use tax.

(e) There is exempt from the sales and use tax all repair parts and labor performed on fire protection machinery, apparatus, and equipment, with all associated parts, appurtenances, and accessories owned by fire departments in
states other than Tennessee.

(f) In order to prevent actual multistate taxation of the acts and privileges subject to tax under this chapter, any taxpayer, upon proof acceptable to the commissioner being submitted that the taxpayer has properly paid sales and use tax in another state on such acts and privileges, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of such tax properly due and paid in another state.

(g)(1) There is exempt from the sales and use tax all repair service labor performed with respect to railroad rolling stock, where the repair services on such railroad rolling stock are initiated, performed or completed in repair facilities located within the state of Tennessee.

(2) As used in this subsection (g):
   (A) “Railroad rolling stock” means all railroad equipment, operating on flanged wheels, that is currently being used, or is reasonably intended to be used, principally in interstate commerce; and
   (B) “Repair service labor” means labor performed with respect to the repair, maintenance, overhauling, rebuilding, modifying or adapting of railroad rolling stock, together with any test or inspection necessary or appropriate thereto. Such exemption does not apply to repair service labor performed by non-Class 1 railroad companies on Class 1 railroad rolling stock.

(h)(1) There shall be exempt from the sales and use tax the following:
   (A) Sales of helicopters or airplanes and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters or airplanes and related equipment are intended to have a situs out of Tennessee, are in fact removed from Tennessee, within thirty (30) days from the date of their purchase;
   (B) Repair and refurbishment services within Tennessee with respect to helicopters and helicopter components and parts that have their situs outside of Tennessee and are removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services. “Repair and refurbishment services” as used in this subdivision (h)(1)(B) and in subdivisions (h)(1)(C) and (D) includes, but is not limited to, modifications, conversions, and installations;
   (C) In addition to the exemptions in subdivisions (h)(1)(A) and (B), sales of helicopters and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters and related equipment are intended to have a situs out of Tennessee, and where such helicopters and related equipment remain within Tennessee following such sale solely for purposes of repair and refurbishment services, and are in fact removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services; and
   (D) Repair and refurbishment services within Tennessee with respect to airplanes and airplane components and parts which have their situs outside of Tennessee and are removed from Tennessee within thirty (30) days from the completion of such repair and refurbishment services when such repair or refurbishment services with respect to such airplanes or airplane components or parts are:
      (i) Performed pursuant to and by the registered owner of one (1) or more “supplemental type certificates” issued by the federal aviation administration; or
(i) Performed pursuant to and by an authorized service facility designated by an original equipment manufacturer for such service with respect to aircraft qualifying as “transport category aircraft” under 14 CFR, parts 25, 29, 91 and 121.

(2) As used in this subsection (h), “helicopter” means an aircraft that derives its lift from blades that rotate about an approximately vertical central axis and that can hover in a stationary position while in flight and move laterally or longitudinally from the hover position.

(i) There is exempt from the sales and use tax the sale of all repair parts, accessories, materials and supplies to a common carrier for use on the purchasing carrier’s freight motor vehicles with a maximum gross weight rating classification of Class One or above under § 55-4-113, or trailers, semi-trailers and pole trailers, as defined in §§ 55-1-105 and 55-4-113, and that are shipped via the purchasing carrier under a bill of lading and transported to a destination outside of this state for use outside this state, where the seller and the purchasing carrier are affiliated with one another such that:

(1) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or
(2) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(j) There is exempt from sales and use tax, computer media exchange services, where the resulting media is shipped out of Tennessee or to a government agency or nontaxable entity located within Tennessee. “Media exchange services” means the process of transferring stored data from one (1) type of storage medium to another type of storage medium, including, but not limited to, magnetic tapes, magnetic cartridges, CD-ROM, magnetic disks/diskettes, laser disks/diskettes, optical disks/diskettes, or any similar media that is used to store or transfer data from one (1) computer to another.

(k)(1) There is exempt from the sales and use tax all repair and refurbishment service labor performed with respect to large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories, when the repair and refurbishment services on the mainframes, equipment, and accessories are initiated, contracted, performed, or completed in or by an authorized large aircraft service facility, including, but not limited to, repair and refurbishment service labor performed by an authorized large aircraft service facility pursuant to the terms of guaranty, warranty, or service contracts.

(2) In addition to the exemptions provided in subdivisions (h)(1) and (k)(1), there is exempt from the sales and use tax all sales, leases, and purchases of large aircraft and related equipment, and their use, storage, or consumption within this state following the sale, lease, or purchase, when the large aircraft and related equipment have or are intended to have a situs outside of this state following the sale, lease, or purchase, and when the large aircraft and related equipment are in and remain within this state following the sale, lease, or purchase solely for purposes of repair and refurbishment services by an authorized large aircraft service facility, and are in fact removed from this state within fifteen (15) days from the completion of the repair and refurbishment services.

(3) As used in this subsection (k):
(A) “Authorized large aircraft service facility,” “large aircraft,” “large aircraft accessories,” “large aircraft engine equipment,” “large aircraft mainframes,” and “repair and refurbishment services” have the same meanings as defined in § 67-6-302;

(B) “Large aircraft and related equipment” means a large aircraft consisting of a large aircraft mainframe and large aircraft engine equipment, including any large aircraft accessories associated with the large aircraft or aircraft engine, whether installed or uninstalled; and

(C) “Repair and refurbishment service labor” means all labor performed in connection with repair and refurbishment services.

67-6-313. Interstate commerce — Repair services — Tax credit. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state for export or produced or manufactured in this state for export. If the sale of tangible personal property imported into this state is sourced to this state, this exemption shall apply; provided, that the purchaser's use of the tangible personal property imported into this state is limited to storage, inspection, or repackaging for shipment of the property for export outside this state.

(b) There is exempt from the sales and use tax repair services, including parts and labor, with respect to qualified tangible personal property, where such services are initiated or completed, or both, by a repair person within the state of Tennessee, and where such property, after having repair services performed on it, is delivered or shipped outside the state of Tennessee. “Qualified tangible personal property” includes machinery, apparatus and equipment, with all associated parts, appurtenances and accessories, that is necessary for:

1. Extracting or removing any natural resources, including, but not limited to, that which is necessary for mining or logging endeavors;
2. Building or improving roads or highways;
3. Land clearing or excavation, or commercial or residential construction;
4. Loading and unloading of containers or truck trailers on and off rail cars, ships, barges or aircraft.

(c)(1) There is exempt from the sales and use tax all repair service labor performed with respect to aircraft engine equipment and aircraft mainframes, where the repair services on such aircraft engine equipment or aircraft mainframes are initiated, performed or completed in repair facilities within the state of Tennessee.

(2) For the purposes of this subsection (c):

(A) “Aircraft engine equipment” means any aircraft engine, including all associated parts, appurtenances and accessories, for the propulsion of aircraft used by a commercial interstate or international air carrier;

(B) “Aircraft mainframes” means any aircraft body, wing, tail assembly, aileron, rudder, landing gear, engine housing, and any other assembly or component integral to the aerodynamic structure of aircraft used by a commercial interstate or international air carrier; and

(C) “Repair service labor” includes all labor performed in connection with the repair, maintenance, overhauling, rebuilding, or modifying of aircraft engine equipment or of aircraft mainframes together with any test
or inspection necessary or appropriate thereto.

(d) There is exempt from the sales and use tax repair services, including parts and labor, to equipment used primarily in interstate commerce, where such repairs are performed outside of Tennessee and the original purchase of such equipment was exempt from sales and use tax.

(e) There is exempt from the sales and use tax all repair parts and labor performed on fire protection machinery, apparatus, and equipment, with all associated parts, appurtenances, and accessories owned by fire departments in states other than Tennessee.

(f) In order to prevent actual multistate taxation of the acts and privileges subject to tax under this chapter, any taxpayer, upon proof acceptable to the commissioner being submitted that the taxpayer has properly paid sales and use tax in another state on such acts and privileges, shall be allowed a credit against the tax imposed by this chapter to the extent of the amount of such tax properly due and paid in another state.

(g)(1) There is exempt from the sales and use tax all repair service labor performed with respect to railroad rolling stock, where the repair services on such railroad rolling stock are initiated, performed or completed in repair facilities located within the state of Tennessee.

(2) As used in this subsection (g):

   (A) “Railroad rolling stock” means all railroad equipment, operating on flanged wheels, that is currently being used, or is reasonably intended to be used, principally in interstate commerce; and

   (B) “Repair service labor” means labor performed with respect to the repair, maintenance, overhauling, rebuilding, modifying or adapting of railroad rolling stock, together with any test or inspection necessary or appropriate thereto. Such exemption does not apply to repair service labor performed by non-Class 1 railroad companies on Class 1 railroad rolling stock.

(h)(1) There shall be exempt from the sales and use tax the following:

   (A) Sales of helicopters or airplanes and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters or airplanes and related equipment are intended to have a situs out of Tennessee, are in fact removed from Tennessee, within thirty (30) days from the date of their purchase;

   (B) Repair and refurbishment services within Tennessee with respect to helicopters and helicopter components and parts that have their situs outside of Tennessee and are removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services. “Repair and refurbishment services” as used in this subdivision (h)(1)(B) and in subdivisions (h)(1)(C) and (D) includes, but is not limited to, modifications, conversions, and installations;

   (C) In addition to the exemptions in subdivisions (h)(1)(A) and (B), sales of helicopters and related equipment within Tennessee to purchasers who are not residents of the state, where such helicopters and related equipment are intended to have a situs out of Tennessee, and where such helicopters and related equipment remain within Tennessee following such sale solely for purposes of repair and refurbishment services, and are in fact removed from Tennessee within fifteen (15) days from the completion of such repair and refurbishment services; and

   (D) Repair and refurbishment services within Tennessee with respect to airplanes and airplane components and parts which have their situs
outside of Tennessee and are removed from Tennessee within thirty (30) days from the completion of such repair and refurbishment services when such repair or refurbishment services with respect to such airplanes or airplane components or parts are:

(i) Performed pursuant to and by the registered owner of one (1) or more “supplemental type certificates” issued by the federal aviation administration; or

(ii) Performed pursuant to and by an authorized service facility designated by an original equipment manufacturer for such service with respect to aircraft qualifying as “transport category aircraft” under 14 CFR, parts 25, 29, 91 and 121.

(2) As used in this subsection (h), “helicopter” means an aircraft that derives its lift from blades that rotate about an approximately vertical central axis and that can hover in a stationary position while in flight and move laterally or longitudinally from the hover position.

(i) There is exempt from the sales and use tax the sale of all repair parts, accessories, materials and supplies to a common carrier for use on the purchasing carrier’s freight motor vehicles with a maximum gross weight rating classification of Class One or above under § 55-4-113, or trailers, semi-trailers and pole trailers, as defined in §§ 55-1-105 and 55-4-113, and that are shipped via the purchasing carrier under a bill of lading and transported to a destination outside of this state for use outside this state, where the seller and the purchasing carrier are affiliated with one another such that:

1. Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

2. One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

(j) There is exempt from sales and use tax, computer media exchange services, where the resulting media is shipped out of Tennessee or to a government agency or nontaxable entity located within Tennessee. “Media exchange services” means the process of transferring stored data from one (1) type of storage medium to another type of storage medium, including, but not limited to, magnetic tapes, magnetic cartridges, CD-ROM, magnetic disks/diskettes, laser disks/diskettes, optical disks/diskettes, or any similar media that is used to store or transfer data from one (1) computer to another.

(k)(1) There is exempt from the sales and use tax all repair and refurbishment service labor performed with respect to large aircraft mainframes, large aircraft engine equipment, and large aircraft accessories, when the repair and refurbishment services on the mainframes, equipment, and accessories are initiated, contracted, performed, or completed in or by an authorized large aircraft service facility, including, but not limited to, repair and refurbishment service labor performed by an authorized large aircraft service facility pursuant to the terms of guaranty, warranty, or service contracts.

(2) In addition to the exemptions provided in subdivisions (h)(1) and (k)(1), there is exempt from the sales and use tax all sales, leases, and purchases of large aircraft and related equipment, and their use, storage, or consumption within this state following the sale, lease, or purchase, when the large aircraft and related equipment have or are intended to have a situs outside of this state following the sale, lease, or purchase, and when the large aircraft and related equipment are in and remain within this state following the sale, lease, or purchase solely for purposes of repair and refurbishment services by
an authorized large aircraft service facility, and are in fact removed from this state within fifteen (15) days from the completion of the repair and refurbishment services.

(3) As used in this subsection (k):
   (A) “Authorized large aircraft service facility,” “large aircraft,” “large aircraft accessories,” “large aircraft engine equipment,” “large aircraft mainframes,” and “repair and refurbishment services” have the same meanings as defined in § 67-6-302;
   (B) “Large aircraft and related equipment” means a large aircraft consisting of a large aircraft mainframe and large aircraft engine equipment, including any large aircraft accessories associated with the large aircraft or aircraft engine, whether installed or uninstalled; and
   (C) “Repair and refurbishment service labor” means all labor performed in connection with repair and refurbishment services.

67-6-322. Religious, educational, and charitable institutions — Energy resource recovery facilities. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) There is exempt from this chapter any sales or use tax upon tangible personal property, computer software, or taxable services sold, given, or donated to any:
   (1) Church, temple, synagogue or mosque;
   (2) University, including the Agricultural Foundation for Tennessee Tech, Inc.;
   (3) College;
   (4) School;
   (5) Orphanage;
   (6) Institution organized for the principal purpose of placing homeless children in foster homes;
   (7) Home for the aged;
   (8) Hospital;
   (9) Girls’ club;
   (10) Boys’ club;
   (11) Community health council;
   (12) Volunteer fire department;
   (13) Organ bank for transplantable tissue;
   (14) Organization whose primary objective is to promote the spiritual and recreational environment of members of the armed services of the United States, such as the United Service Organization as it is presently conducted;
   (15) Historical property owned by the state and operated by the historical commission or under the jurisdiction of the commission as authorized by § 4-11-108;
   (16) Nonprofit community blood bank;
   (17) Senior citizen service centers that meet the standards set by the Tennessee commission on aging for eligibility to receive state funds; or
   (18) Nonprofit corporation whose primary function involves the annual organization, promotion, and sponsorship of a statewide talent and beauty pageant in which contestants compete for scholarships, awarded by such nonprofit corporation, as well as for the opportunity of being Tennessee’s representative and contestant in an annual nationwide talent and beauty
pageant with which such nonprofit corporation is affiliated.

(b) In addition to the exempt institutions, organizations and historical properties described in subsection (a), there are also exempt such other institutions and organizations that have received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(3), (c)(5) labor organizations, (c)(13) not-for-profit cemetery companies, and (c)(19), codified in 26 U.S.C. § 501(c)(3), (5), (13) and (19), respectively, and that are currently operating under it, and any war-time era veterans' organization that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(4), codified in 26 U.S.C. § 501(c)(4), and that is chartered by the United States congress. The exemption provided for herein does not apply to purchases of bingo cards or equipment by such organizations.

(c) Any exemption granted under subsection (a) or (b) shall be limited to such institutions, organizations or historical properties that are not organized or operated for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) Any exemption granted under subsections (a)-(c) shall only apply to sales, gifts, or donations made directly to the exempt institution, organization or historical property. There shall be no exemption upon sales, gifts, or donations made to an independent contractor with any such exempt institution, organization or historical property.

(e) No dealer shall sell, give or donate, and no user shall use, any tangible personal property under the claim that the tangible personal property is exempt from the sales or use tax levied by this chapter, where the exemption from taxation is claimed because the vendee or user is an educational, religious or charitable institution or organization or historical property and is entitled to an exemption as such institution or organization or historical property under subsections (a)-(d), unless the vendee or user shall have issued to it by the commissioner an exemption certificate declaring that such institution or organization or historical property is entitled to the exemption provided for by subsections (a)-(d); provided, that, in the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). Persons who have obtained an exemption certificate issued by the commissioner shall provide their vendors with a copy of the certificate or a fully completed streamlined sales tax certificate of exemption, which must include the exemption account number included on the certificate issued by the commissioner. The dealer shall maintain a copy of such exemption in the dealer’s records to document that the purchaser was entitled to the exemption. In the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). The dealer shall maintain a copy of such exemption in the dealer’s records to document that the purchaser was entitled to the exemption.

(f) The commissioner is authorized to make final determination after hearing, if demanded, as to whether any institution or organization or historical property is entitled to the benefit of the exemption established by subsections (a)-(d). The commissioner is authorized to issue exemption certificates to institutions and organizations and historical properties that, in the
commissioner's judgment, are entitled thereto.

(g) No county having a metropolitan form of government is authorized under this chapter to levy any tax on the sale, purchase, use, consumption or distribution of steam and chilled water produced and distributed by an energy resource recovery facility operated in a county with a metropolitan form of government.

(h) No tax exemption as permitted by this section applies to the purchase of bingo materials or supplies or equipment or cards.

(i) There is also exempt from this chapter any sales or use tax upon tangible personal property or taxable services sold, given, or donated to any Tennessee historic property preservation or rehabilitation entity as defined in § 67-4-2004. This exemption is subject to subsections (d), (e), and (f).

67-6-322. Religious, educational, and charitable institutions — Energy resource recovery facilities. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) There is exempt from this chapter any sales or use tax upon tangible personal property, computer software, or taxable services sold, given, or donated to any:

1. Church, temple, synagogue or mosque;
2. University, including the Agricultural Foundation for Tennessee Tech, Inc.;
3. College;
4. School;
5. Orphanage;
6. Institution organized for the principal purpose of placing homeless children in foster homes;
7. Home for the aged;
8. Hospital;
9. Girls’ club;
10. Boys’ club;
11. Community health council;
12. Volunteer fire department;
13. Organ bank for transplantable tissue;
14. Organization whose primary objective is to promote the spiritual and recreational environment of members of the armed services of the United States, such as the United Service Organization as it is presently conducted;
15. Historical property owned by the state and operated by the historical commission or under the jurisdiction of the commission as authorized by § 4-11-108;
16. Nonprofit community blood bank;
17. Senior citizen service centers that meet the standards set by the Tennessee commission on aging for eligibility to receive state funds; or
18. Nonprofit corporation whose primary function involves the annual organization, promotion, and sponsorship of a statewide talent and beauty pageant in which contestants compete for scholarships, awarded by such nonprofit corporation, as well as for the opportunity of being Tennessee’s representative and contestant in an annual nationwide talent and beauty pageant with which such nonprofit corporation is affiliated.

(b) In addition to the exempt institutions, organizations and historical
properties described in subsection (a), there are also exempt such other institutions and organizations that have received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(3), (c)(5) labor organizations, (c)(13) not-for-profit cemetery companies, and (c)(19), codified in 26 U.S.C. § 501(c)(3), (5), (13) and (19), respectively, and that are currently operating under it, and any war-time era veterans' organization that has received a determination of exemption from the internal revenue service under the Internal Revenue Code § 501(c)(4), codified in 26 U.S.C. § 501(c)(4), and that is chartered by the United States congress. The exemption provided for herein does not apply to purchases of bingo cards or equipment by such organizations.

(c) Any exemption granted under subsection (a) or (b) shall be limited to such institutions, organizations or historical properties that are not organized or operated for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) Any exemption granted under subsections (a)-(c) shall only apply to sales, gifts, or donations made directly to the exempt institution, organization or historical property. There shall be no exemption upon sales, gifts, or donations made to an independent contractor with any such exempt institution, organization or historical property.

(e) No dealer shall sell, give or donate, and no user shall use, any tangible personal property under the claim that the tangible personal property is exempt from the sales or use tax levied by this chapter, where the exemption from taxation is claimed because the vendee or user is an educational, religious or charitable institution or organization or historical property and is entitled to an exemption as such institution or organization or historical property under subsections (a)-(d), unless the vendee or user shall have issued to it by the commissioner an exemption certificate declaring that such institution or organization or historical property is entitled to the exemption provided for by subsections (a)-(d); provided, that, in the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). Persons who have obtained an exemption certificate issued by the commissioner shall provide their vendors with a copy of the certificate or a fully completed streamlined sales tax certificate of exemption, which must include the exemption account number included on the certificate issued by the commissioner. The dealer shall maintain a copy of such exemption in the dealer's records to document that the purchaser was entitled to the exemption. In the case of a sale to a person who is not a resident or domiciliary of Tennessee, an exemption certificate issued by the commissioner is not required, if the dealer shall instead receive from such person a copy of a current and valid exemption from federal taxation under 26 U.S.C. § 501(c)(3). The dealer shall maintain a copy of such exemption in the dealer's records to document that the purchaser was entitled to the exemption.

(f) The commissioner is authorized to make final determination after hearing, if demanded, as to whether any institution or organization or historical property is entitled to the benefit of the exemption established by subsections (a)-(d). The commissioner is authorized to issue exemption certificates to institutions and organizations and historical properties that, in the commissioner's judgment, are entitled thereto.

(g) The sale, purchase, use, consumption or distribution of energy in the form
of steam or chilled water produced and distributed by an energy resource recovery facility operated in a county with a metropolitan form of government is exempt from sales or use tax.

(h) No tax exemption as permitted by this section applies to the purchase of bingo materials or supplies or equipment or cards.

(i) There is also exempt from this chapter any sales or use tax upon tangible personal property or taxable services sold, given, or donated to any Tennessee historic property preservation or rehabilitation entity as defined in § 67-4-2004. This exemption is subject to subsections (d), (e), and (f).

67-6-329. Miscellaneous exemptions. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) The sale at retail, the use, the consumption, the distribution and the storage for use or consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by this chapter:

(1) “Gasoline” upon which a privilege tax per gallon is paid, and not refunded; except that pre-mixed engine fuel containing gasoline and oil, produced for use in two-cycle engines and not for use in the propulsion of an aircraft, vessel or any other vehicle, that is sold in containers of one gallon (1 gal.) or less, is not exempt from the tax imposed by this chapter;

(2) Motor fuel taxed per gallon by chapter 3, part 2 of this title;

(3) Textbooks and workbooks;

(4) All sales made to the state or any county or municipality within the state;

(5) Liquified gas and compressed natural gas taxed by chapter 3, part 11 of this title;

(6) Magazines and books that are distributed and sold to consumers by United States mail or common carrier, where the only activities of the seller or distributor in this state are those activities having to do with the printing, storage, labeling and/or delivery to the United States mail or common carrier of the magazines or books, or the maintenance of raw materials with respect to those activities, notwithstanding that the seller or distributor maintains employees in the state solely in connection with the production and quality control of the printing, storage, labeling and/or delivery, or in connection with news gathering and reporting;

(7) Parking privileges sold by colleges, universities, technical institutes or state colleges of applied technology to students at those institutions;

(8) Materials used for the lining or protective coating of railroad tank cars and any charges made for the installation or repair of the linings or protective coatings;

(9) Chemicals and supplies used in air or water pollution control facilities for pollution control purposes;

(10) Periodicals printed entirely on newsprint or bond paper and regularly distributed twice monthly, or on a biweekly or more frequent basis, and advertising supplements or other printed matter distributed with the periodicals;

(11) The sale of United States and Tennessee flags sold by a nonprofit organization;

(12) Industrial materials and explosives for future processing, manufacture or conversion into articles of tangible personal property for resale where the industrial materials and explosives become a component part of the
finished product or are used directly in fabricating, dislodging, or sizing;

(13) Materials, containers, labels, sacks, bags or bottles used for packaging tangible personal property when the property is either sold in the containers, sacks, bags or bottles directly to the consumer or when such use is incidental to the sale of the property for resale;

(14) Film, including negatives, used in the business of printing, or provided to a business of printing to obtain the services of the business; or typesetting used in the business of printing and materials necessary for the typesetting, or typesetting, or materials necessary for typesetting provided to a business of printing to obtain the services of the business;

(15) Home communication terminals, remote control devices, and other similar equipment purchased on or after January 1, 2000, by a video programming service provider and held for sale or lease to its subscribers;

(16) Utility poles, anchors, guys, and conduits;

(17) Aircraft used for and owned by a person providing flight training;

(18) Prepared food, as defined in § 67-6-102, when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12). This subdivision (a)(18) shall not be interpreted to exempt a public or private school or school support group from paying sales or use taxes on the purchase price of prepared food or food and food ingredients, as defined by § 67-6-102, purchased for resale by the school or a school support group at fund raisers, sports events and the like pursuant to § 67-6-229, or to exempt sales from any vending machine, including vending machines located on the premises of public or private schools, from the sales tax;

(19) Copies of hospital records, as defined in § 68-11-302, sold or otherwise provided to an attorney, agent or other authorized representative acting in a lawsuit on behalf of any hospital that has received a determination of exemption as provided in § 67-6-322(e); and

(20) OEM headquarters company vehicles.

(b) Charges for the following services are exempt from the tax imposed by this chapter:

(1) Coin-operated telephone service;

(2) Automatic teller machine (ATM) service. The seller of the ATM service shall be deemed the user and consumer of telecommunication services necessary to deliver the ATM service; and

(3) Wire transfer or other services provided by any corporation defined as a financial institution under § 67-4-2004. The seller of the wire transfer or other services shall be deemed the user and consumer of telecommunication services necessary to deliver the wire transfer service.

(c) No provision of this section shall be construed to amend or repeal § 67-6-301.

(d) The sale at retail, use, consumption, distribution and storage for use or consumption in this state of the following specified digital goods is specifically exempted from the tax imposed by this chapter:

(1) Any specified digital good, if the sale, lease, licensing and use of the equivalent in a tangible form is exempt from taxation under this chapter; and

(2) Specified digital goods provided without charge for less than permanent use.
67-6-329. Miscellaneous exemptions. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) The sale at retail, the use, the consumption, the distribution and the storage for use or consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by this chapter:

(1) "Gasoline" upon which a privilege tax per gallon is paid, and not refunded; except that pre-mixed engine fuel containing gasoline and oil, produced for use in two-cycle engines and not for use in the propulsion of an aircraft, vessel or any other vehicle, that is sold in containers of one gallon (1 gal.) or less, is not exempt from the tax imposed by this chapter;

(2) Motor fuel taxed per gallon by chapter 3, part 2 of this title;

(3) Textbooks and workbooks;

(4) All sales made to the state or any county or municipality within the state;

(5) Liquified gas and compressed natural gas taxed by chapter 3, part 11 of this title;

(6) Magazines and books that are distributed and sold to consumers by United States mail or common carrier, where the only activities of the seller or distributor in this state are those activities having to do with the printing, storage, labeling and/or delivery to the United States mail or common carrier of the magazines or books, or the maintenance of raw materials with respect to those activities, notwithstanding that the seller or distributor maintains employees in the state solely in connection with the production and quality control of the printing, storage, labeling and/or delivery, or in connection with news gathering and reporting;

(7) Parking privileges sold by colleges, universities, technical institutes or state colleges of applied technology to students at those institutions;

(8) Materials used for the lining or protective coating of railroad tank cars and any charges made for the installation or repair of the linings or protective coatings;

(9) Chemicals and supplies used in air or water pollution control facilities for pollution control purposes;

(10) Periodicals printed entirely on newsprint or bond paper and regularly distributed twice monthly, or on a biweekly or more frequent basis, and advertising supplements or other printed matter distributed with the periodicals;

(11) The sale of United States and Tennessee flags sold by a nonprofit organization;

(12) Industrial materials and explosives for future processing, manufacture or conversion into articles of tangible personal property for resale where the industrial materials and explosives become a component part of the finished product or are used directly in fabricating, dislodging, or sizing;

(13) Materials, containers, labels, sacks, bags or bottles used for packaging tangible personal property when the property is either sold in the containers, sacks, bags or bottles directly to the consumer or when such use is incidental to the sale of the property for resale;

(14) Film, including negatives, used in the business of printing, or provided to a business of printing to obtain the services of the business; or typesetting used in the business of printing and materials necessary for the typesetting, or typesetting, or materials necessary for typesetting provided to
a business of printing to obtain the services of the business;

(15) Home communication terminals, remote control devices, and other similar equipment purchased on or after January 1, 2000, by a video programming service provider and held for sale or lease to its subscribers;

(16) Utility poles, anchors, guys, and conduits;

(17) Aircraft used for and owned by a person providing flight training;

(18) Prepared food, as defined in § 67-6-102, when sold pursuant to programs authorized by a federal, state or local government entity or by the school governing body, that provide meals for public or private school students in grades kindergarten through twelve (K-12). This subdivision (a)(18) shall not be interpreted to exempt a public or private school or school support group from paying sales or use taxes on the purchase price of prepared food or food and food ingredients, as defined by § 67-6-102, purchased for resale by the school or a school support group at fund raisers, sports events and the like pursuant to § 67-6-229, or to exempt sales from any vending machine, including vending machines located on the premises of public or private schools, from the sales tax;

(19) Dyed diesel fuel purchased for off-road use as provided in chapter 3 of this title;

(20) Charges for subscription to, access to, or use of video programming services or direct-to-home satellite television services subject to the tax levied under chapter 4, part 24, of this title;

(21) Copies of hospital records, as defined in § 68-11-302, sold or otherwise provided to an attorney, agent or other authorized representative acting in a lawsuit on behalf of any hospital that has received a determination of exemption as provided in § 67-6-322(e); and

(22) OEM headquarters company vehicles.

(b) Charges for the following services are exempt from the tax imposed by this chapter:

(1) Coin-operated telephone service;

(2) Automatic teller machine (ATM) service. The seller of the ATM service shall be deemed the user and consumer of telecommunication services necessary to deliver the ATM service; and

(3) Wire transfer or other services provided by any corporation defined as a financial institution under § 67-4-2004. The seller of the wire transfer or other services shall be deemed the user and consumer of telecommunication services necessary to deliver the wire transfer service.

(c) No provision of this section shall be construed to amend or repeal § 67-6-301.

(d) The sale at retail, use, consumption, distribution and storage for use or consumption in this state of the following specified digital goods is specifically exempted from the tax imposed by this chapter:

(1) Any specified digital good, if the sale, lease, licensing and use of the equivalent in a tangible form is exempt from taxation under this chapter; and

(2) Specified digital goods provided without charge for less than permanent use.

676. Amusement tax exemptions.

(a) There is exempt from the sales tax on admission, dues or fees imposed by § 67-6-212:
(1) Events or activities held for or sponsored by public or private schools, kindergarten through grade twelve (K-12);

(2) The sales price of admissions to county or agricultural fairs and any dues, fees or charges that enable or entitle the entrant to engage in any otherwise taxable amusement activity held therein, including games, rides, shows, contests, or grandstand events;

(3) Membership application fees, dues or contributions, except that portion attributable to admission prices, paid to institutions and organizations that have received a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c)(3), (8) and (19) and that are currently operating under such exemption;

(4) Membership fees or dues of those organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government;

(5)(A) The sales price of admissions to amusement or recreational activities conducted, produced, or provided by:

(i) Not-for-profit museums, not-for-profit entities that operate historical sites and not-for-profit historical societies, organizations or associations;

(ii) Organizations that have received and currently hold a determination of exemption from the internal revenue service, pursuant to 26 U.S.C. § 501(c);

(iii) Organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the office of management and budget of the federal government; or

(iv) Tennessee historic property preservation or rehabilitation entities, as defined in § 67-4-2004;

(B) The exemption provided for in this subdivision (a)(5) shall not apply unless such entities, societies, associations or organizations promote, produce and control the entire production or function;

(6) Fees in any form resulting from the production of television, film, radio or theatrical presentations. This exemption shall not include any dues, fees or other charges made on or for the admission of the public to such presentations;

(7) Events or activities conducted upon rivers and waterways in this state whose continued use for recreational purposes is contingent upon revenue produced pursuant to agreements entered into between the state of Tennessee and the federal government, or an agency thereof, which agreements provide for the establishment of a trust fund for such purposes; provided, that this exemption shall prevail only if the annual distribution of funds to the state from such trust fund exceeds that amount of revenue to the state that would otherwise be produced if the amusement tax under § 67-6-212 were imposed on such events or activities, as determined by the fiscal review committee;

(8) All sales contractually committed and/or for which money has been paid prior to June 1, 1984;

(9) Athletic events for participants under eighteen (18) years of age sponsored by civic or not-for-profit organizations;

(10) The sales price of admissions to amusement or recreational activities or facilities conducted, produced and controlled by municipalities or
(11) Membership assessments for capital improvements made by a recreation club, community service organization or country club against its members;

(12) The sales price of admissions to beauty pageants or rodeos and any fees, charges or rental fees that entitle or enable the entrant to engage in any otherwise taxable amusement activity held therein that are conducted, produced or provided by a nonprofit civic organization; provided, that this exemption only applies to beauty pageants or rodeos that have been held in the same city for thirty (30) years or longer;

(13) The sales price of admissions to musical concerts conducted, produced or provided by not-for-profit community group associations, if such associations promote, produce and control such concerts;

(14) Any event or activity held by an employer solely for the benefit of the employer’s employees; provided, that such event or activity must be entirely produced and controlled by such employer;

(15) Fishing tournament registration fees collected from tournament participants;

(16)(A) Dues, membership application fees, admission fees, contributions or rental charges for equipment paid to any corporation or enterprise that offers, on a regular, full-time basis, services or facilities for the development or preservation of physical fitness through exercise or athletics; provided, that such corporation or enterprise claiming this exemption, in order to qualify for such exemption, must:

(i) Have at least one (1) full-time employee certified in administering health assessments, or at least one (1) full-time employee licensed by the state that represents a medical and/or paramedical discipline;

(ii) Be open at least seventy (70) hours per week;

(iii) Permit participation by each member each day in operation;

(iv) Have at least fifteen thousand square feet (15,000 sq. ft.) in use for physical fitness purposes; and

(v) Offer three (3) or more of the following programs and/or activities:

(a) Health assessments that include blood chemistry and urinalysis;

(b) Racquetball;

(c) Exercise equipment;

(d) Track or swimming; and

(e) Aerobics.

(B) Before any corporation or enterprise can be exempted under this subdivision (a)(16), the department of revenue shall, based upon information supplied by the person claiming such exemption, approve such exemption. The exemption provided in this subdivision (a)(16) shall not apply, however, to establishments listed under Industry 7992 and Industry 7997 of the Standard Industrial Classification Index of 1987, prepared by the office of management and budget of the federal government;

(17) Any entry fee or charge that allows an entrant to participate in a contest or tournament or charity horse show;

(18) Charges made by landowners for permission to hunt native wildlife on their property that is located partially or entirely in a county having a population of not less than thirty-one thousand nine hundred (31,900) nor more than thirty-two thousand (32,000), according to the 1980 federal
census or any subsequent federal census; and

(19) The fee paid by an establishment operated primarily for the sale of prepared food to one (1) or more persons for the purpose of providing live entertainment to the patrons of such establishment.

(b) The exemptions provided in subdivisions (a)(6) and (11) do not apply to interscholastic sports held or sponsored by private or public colleges or universities.

67-6-349. Petroleum products sold to air common carriers for flights outside United States. [Effective until July 1, 2019.]

(a) There is exempt from the tax imposed by this chapter fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier for a flight destined for or continuing from a location outside the United States.

(b)(1) If a dealer pays to the department the tax imposed by this chapter on fuel or petroleum products sold to an air common carrier, and if the fuel or petroleum products are subsequently used by the air common carrier in a manner that renders the product exempt from tax under subsection (a), then the dealer may take a credit equal to the amount of tax previously paid to the department, if all of the following conditions are satisfied:

(A) Prior to taking the credit, the dealer must give the air common carrier a credit or refund of any tax collected from the air common carrier that is the basis for the credit taken under this subsection (b);

(B) The dealer must obtain documentation from the air common carrier that is sufficient to establish that the fuel or petroleum products were used in an exempt manner as provided in subsection (a); and

(C) The credit is taken by the dealer on a return filed pursuant to this chapter within one (1) year of the date the tax was paid to the department.

(2) The dealer must maintain documentation that is sufficient to establish entitlement to the credit, and the documentation must be maintained for a period of three (3) years from December 31 of the year in which the credit is taken on the return. Nothing in this subsection (b) shall be construed as preventing the dealer from filing a claim for refund pursuant to § 67-1-1802 in lieu of taking a credit on the tax return; provided, however, that in no case shall the same tax be subject to a refund and a credit.

67-6-385. Sales to common carriers for use outside state — Certificate — Records — Exceptions. [Effective on July 1, 2019.]

(a) Notwithstanding other provisions of this chapter, except as provided in this section, no tax is imposed with respect to sales of tangible personal property to common carriers for use outside this state.

(b) Persons seeking to make such purchases exempt from tax shall apply to the commissioner for a certificate as provided in § 67-6-528 to obtain the exemption. The common carrier must give a copy of the certificate or a fully completed Streamlined Sales Tax certificate of exemption to each dealer from which it intends to make purchases exempt from tax.

(c) If a common carrier fails to keep records as required by the commissioner to establish that property purchased exempt from tax was not used in this state but was removed from this state for use and consumption outside this state,
then the common carrier shall be liable for tax on the property at the full rate provided by § 67-6-203 regardless of whether the carrier had previously obtained a certificate as provided by this section; provided, that the carrier shall be given credit for any tax paid on the property pursuant to chapter 4, part 23 of this title.

(d) This section does not apply to sales of food and food ingredients, candy, dietary supplements, prepared food, alcoholic beverages, tobacco and fuel.

67-6-386. Sale or use of aviation fuel. [Effective on July 1, 2019.]

Notwithstanding other provisions of this chapter, no tax is imposed with respect to the sale or use of aviation fuel that is actually used in the operation of airplane or aircraft motors.

67-6-396. Exemptions from sales and use tax for natural disaster claimants.

(a) For purposes of this section:

(1) “Claimant” means any natural person receiving disaster assistance through the federal emergency management agency (FEMA) for repair, replacement, or construction of the person’s primary residence that was damaged or destroyed as a result of a natural disaster occurring in Tennessee;

(2) “Major appliance” means any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cooktop, microwave, vacuum, or fan that is used in the claimant’s primary residence to replace an appliance that was damaged or destroyed in a natural disaster occurring in Tennessee; provided, that the sales price per item is three thousand two hundred dollars ($3,200) or less;

(3) “Residential building supplies” means any of the following items if used in the claimant’s primary residence and reasonably determined by the department to be for purposes of restoration, repair, replacement, or rebuilding due to a natural disaster occurring in Tennessee; provided, that the sales price per item is five hundred dollars ($500) or less:
   (A) Cleaning and disinfecting materials, as determined by the department;
   (B) Trash bags, boxes, construction tools, and hardware, as determined by the department;
   (C) Roofing shingles, roofing paper, gutters, downspouts, vents, doors, windows, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials, as determined by the department; and
   (4) “Residential furniture” means furniture commonly used in a residential dwelling, as determined by the department, that is used in the claimant’s primary residence to replace furniture that was damaged or destroyed in a natural disaster occurring in Tennessee; provided, that the sales price per item is three thousand two hundred dollars ($3,200) or less.

(b) A claimant shall be entitled to a refund equal to the total amount of Tennessee state and local sales and use tax paid by the claimant to one (1) or more retailers as a result of the claimant’s purchases of major appliances, residential furniture, or residential building supplies from such retailers; provided, that the total amount refunded under this section in connection with any one (1) residence shall not exceed two thousand five hundred dollars.
($2,500).

(c)(1) To receive a refund under this section, a claimant may file only one (1) natural disaster claim for refund with the department, and shall file such claim for refund within one (1) year from the date shown on the FEMA decision letter received by the claimant.

(2) The claimant must also certify on the natural disaster claim for refund form that purchases for which the refund is claimed were to replace, repair or restore property damaged in a federally declared natural disaster occurring in Tennessee.

(3) Notwithstanding any provision of § 67-1-1802, such refund shall be made by the department directly to the claimant and shall not be made by the retailer to the claimant. All natural disaster claims for refund shall include satisfactory proof of receipt of federal disaster assistance.

(4) Each claimant shall keep and preserve suitable records of the purchases for which a refund is claimed pursuant to this section, including, but not limited to, store receipts and copies of payment documents such as checks, credit card receipts, or a sworn statement under penalty of perjury to support any purchases made using cash. Such records must be kept and preserved for a period of three (3) years from December 31 of the year in which the natural disaster claim for refund was filed. Such records shall be open to the inspection of the commissioner, or the duly authorized delegates of the commissioner, at all reasonable hours.

(5) The commissioner of revenue has the authority to conduct audits or require the filing of additional information necessary to substantiate the amount of any refund due to the claimant.

(d) The department may assess a civil penalty not to exceed twenty-five thousand dollars ($25,000) against any person that knowingly files a false or fraudulent application for refund under this section. Any claimant that is assessed a penalty under this subsection (d) shall be entitled to the remedies provided in § 67-1-1801.

(e) All refunds under this section shall be paid from the state’s general fund and nothing in this section shall be construed to reduce the amount of sales and use tax payable to local governments.

(f)(1) Notwithstanding subsection (b), for a federally declared natural disaster that occurred during the period of November 28, 2016, to December 9, 2016, in a county with a population of not less than eighty-nine thousand eight hundred (89,800) nor more than eighty-nine thousand nine hundred (89,900), according to the 2010 federal census or any subsequent federal census, the total amount refunded under this section in connection with any one (1) residence shall not exceed three thousand five hundred dollars ($3,500).

(2) For purposes of this subsection (f), a “claimant” has the same meaning as defined in subdivision (a)(1) and includes a natural person whose secondary residence was damaged or destroyed by fire as a result of a federally declared natural disaster that occurred during the period of November 28, 2016, to December 9, 2016, in a county with a population of not less than eighty-nine thousand eight hundred (89,800) nor more than eighty-nine thousand nine hundred (89,900), according to the 2010 federal census or any subsequent federal census.

(3) For purposes of this subsection (f), each claimant is limited to one (1) refund claim for a primary residence and one (1) refund claim for one (1)
secondary residence.

(4) For purposes of this subsection (f), “major appliance,” “residential building supplies,” and “residential furniture” have the same meanings as defined in subsection (a) and include such items as used in the claimant’s secondary residence.

(5) Subsection (c) shall apply to all refund claims in connection with a primary residence.

(6) Subsection (c) shall apply to all refund claims in connection with a secondary residence; provided, that a claimant is not required to include proof of receipt of federal disaster assistance and the claimant must file such claim for a refund by April 1, 2018. The claimant must certify that the secondary residence was damaged or destroyed by fire in a federally declared natural disaster that occurred during the period of November 28, 2016, to December 9, 2016, in a county with a population of not less than eighty-nine thousand eight hundred (89,800) nor more than eighty-nine thousand nine hundred (89,900), according to the 2010 federal census or any subsequent federal census.

67-6-407. Dealers of aviation fuel — Reports. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) The commissioner shall require each dealer of aviation fuel to file an additional report stating the total amount in gallons of aviation fuel sold and the dollar amount collected from such sales. The report required by this section shall be filed on a monthly or quarterly basis, as determined by the commissioner in the commissioner’s discretion. Such report shall be filed no later than thirty (30) days after the last day of the sales period covered by the report. The report shall be supplemental to any other report required by the department and shall be on a form prescribed by the department.

(b) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file the report described in subsection (a) a civil penalty of five hundred dollars ($500) for failure to file such report. Such penalty shall be subject to waiver under § 67-1-803.

67-6-407. Dealers of aviation fuel — Reports. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) The commissioner has the authority to require any person who pays the tax imposed by this chapter or by chapter 4, part 23 or 24 of this title, if the tax is to be allocated to the transportation equity trust fund pursuant to § 67-6-103, to file a quarterly report not later than thirty (30) days after the last day of the preceding calendar quarter. The report shall be executed under penalty of perjury, stating the total amount in gallons of fuel subject to the tax, the dollar amount of tax paid on the sales or uses, and any other information as may be required by the commissioner on forms prescribed by the department. The report required in this subsection (a) shall be supplemental to any other required by the commissioner or the department. A failure to file the report shall result in a civil penalty to be determined by the commissioner pursuant to the authority contained in § 67-6-402.

(b) The commissioner may furnish the reports authorized by this section, or the tax information contained in the reports, to the department of transportation solely for the purpose of administering the transportation equity trust fund.
Any information released to the department of transportation pursuant to this subsection (b) shall be subject to chapter 1, part 17 of this title, including the criminal penalties contained in chapter 1, part 17 of this title.

67-6-408. Transportation equity trust fund — Commissioners’ annual report. [Effective until July 1, 2019. See the version effective on July 1, 2019.] On or before December 31 each year, the commissioners of revenue and transportation shall jointly publish and provide to the governor and to each member of the general assembly a report that summarizes the amount and source of all moneys received and deposited during the preceding fiscal year in the transportation equity fund, created pursuant to § 67-6-103(b). The report shall also include the following information:

(1) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation;
(2) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for railways;
(3) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for water carriers;
(4) The portion of the transportation equity trust fund used by the department of transportation for railway-related programs and activities, including a brief description of each such program and activity receiving such funding;
(5) The portion of the transportation equity trust fund used by the department of transportation for aeronautics-related programs and activities, including a brief description of each such program and activity receiving such funding; and
(6) The portion of the transportation equity trust fund used by the department of transportation for waterways-related programs and activities, including a brief description of each such program and activity receiving such funding.

67-6-408. Transportation equity trust fund — Commissioners’ annual report. [Effective on July 1, 2019. See the version effective until July 1, 2019.] On or before December 31 each year, the commissioners of revenue and transportation shall jointly publish and provide to the governor and to each member of the general assembly a report that summarizes the amount and source of all moneys received and deposited during the preceding fiscal year in the transportation equity trust fund, created pursuant to § 67-6-103(b). The report shall also include the following information:

(1) The total amount of moneys received under this chapter and § 67-4-2701 from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for aviation;
(2) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for railways;
(3) The total amount of moneys received under this chapter from the sale, use, consumption, distribution, or storage for use or consumption of fuels used for water carriers;

(4) The portion of the transportation equity trust fund used by the department of transportation for railway-related programs and activities, including a brief description of each such program and activity receiving such funding;

(5) The portion of the transportation equity trust fund used by the department of transportation for aeronautics-related programs and activities, including a brief description of each such program and activity receiving such funding; and

(6) The portion of the transportation equity trust fund used by the department of transportation for waterways-related programs and activities, including a brief description of each such program and activity receiving such funding.

67-6-504. Returns and payment. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) The taxes levied under this chapter shall be due and payable monthly, on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner, upon forms prescribed, prepared and furnished by the commissioner, returns, showing the gross sales, or purchases, as the case may be, arising from all sales or purchases taxable under this chapter during the preceding calendar month.

(b) At the time of transmitting the return required in this chapter to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due under the applicable provisions of this chapter, and failure to so remit such tax shall cause the tax to become delinquent.

(c) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the commissioner may prescribe.

(d) Gross proceeds from the furnishing of things or services taxable under this chapter shall be reported and the tax shall be paid with respect thereto in the same manner as gross proceeds from the sale, rental or lease of tangible personal property and in accordance with such rules and regulations as the commissioner may prescribe.

(e) Any dealer who is liable for the tax imposed by this chapter may round off all figures used on the sales and use tax return to the nearest dollar amount.

(f) Notwithstanding any law to the contrary, when a taxpayer is required to remit payments electronically as set forth in § 67-1-703(b), then all returns required by this chapter that are associated with such payments shall be filed electronically using a method approved by the commissioner. When any taxpayer is required to file returns and remit payments electronically for any one (1) outlet, location or other place of business, the commissioner may require the taxpayer to file returns and remit payments electronically for each place of business of the taxpayer. The requirement to file electronically shall continue thereafter until such time as the commissioner advises the taxpayer to file by another method. In extenuating circumstances, the commissioner is
authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars ($25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars ($500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under § 67-1-803.

(h) In computing the tax due or to be collected as the result of any transaction, the tax rate shall be the sum of the applicable state and local rate, if any, and the tax computation shall be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded to the next whole cent.

(i) A seller may elect to compute the tax due on a transaction on either an item or an invoice basis, and may apply the rounding rule provided for in subsection (h) to the aggregated state and local taxes. A seller shall not be required to collect the tax on a bracket system.

(j)(1) Any dealer making sales subject to the tax imposed by this chapter may choose to collect and remit taxes as a Model 1 or Model 2 seller, subject to this subsection (j). For purposes of this subsection (j), tax includes any associated interest and penalty.

(2)(A) A dealer choosing Model 1 shall contract with a certified service provider and shall permit the certified service provider to determine the tax due, collect the tax, file returns, and remit the tax to the appropriate state on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. A Model 1 seller’s liability to this state for the tax levied by this chapter is limited to the tax due on its own purchases, the tax due on any of its sales, leases, or rentals made outside the system provided by the certified service provider, and the tax due in the event of fraud by the Model 1 seller. The certified service provider shall not have any additional liability for state or local option taxes imposed by this chapter, if:

(i) The Model 1 seller charged and collected an incorrect amount of sales or use tax in reliance on erroneous data made available for review but not discovered during the certification of the certified service provider’s automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct the automated system. The commissioner may allot additional time upon a showing by the certified service provider of the need for additional time to correct the automated system; or

(ii) An item or transaction is incorrectly classified as to its taxability within the certified service provider’s automated system that was certified by this state; provided, that the taxability error is corrected within ten (10) days of the date of the notification by the commissioner to correct the automated system.

(B) Beginning on the first day after the allotted period of time to correct the certified service provider’s automated system, the certified service
provider shall be liable for the tax, penalty and interest resulting from the failure to correct the certified service provider’s automated system. This subdivision (j)(2) does not apply to errors in charging and collecting or remitting sales or use tax that are the result of classifying the item or transaction within a defined term or other classification within the certified service provider’s automated system.

(3) A dealer choosing Model 2 shall use a certified automated system to determine the tax due on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. Model 2 sellers shall not have any additional liability for state or local option taxes imposed by this chapter, if the Model 2 seller charged and collected or remitted an incorrect amount of sales or use tax in reliance on the certification of the certified automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct or notification by the provider of the certified automated system of the availability of updates to correct the certified automated system. Beginning on the eleventh day, the Model 2 seller shall be liable for the tax, penalty, and interest resulting from the failure to correct or update the certified automated system for errors resulting from reliance on the certification.

(k) A certified service provider has, and is subject to, all of the rights, liabilities, duties and responsibilities imposed by this chapter as if it were the Model 1 seller for whom the certified service provider has agreed to perform all sales and use tax functions, except the Model 1 seller’s obligation to remit tax on its own purchases.

(l) The commissioner may enter into contracts with certified service providers for the collection and reporting of the tax imposed under this chapter. The commissioner may enter into the contracts in conjunction with other states.

67-6-504. Returns and payment. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) The taxes levied under this chapter shall be due and payable monthly, on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner, upon forms prescribed, prepared and furnished by the commissioner, returns, showing the gross sales, or purchases, as the case may be, arising from all sales or purchases taxable under this chapter during the preceding calendar month; provided, that each dealer shall be required to file only one (1) return per month for all of its locations within the state.

(b) At the time of transmitting the return required in this chapter to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due under the applicable provisions of this chapter, and failure to so remit such tax shall cause the tax to become delinquent.

(c) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the commissioner may prescribe.

(d) Gross proceeds from the furnishing of things or services taxable under this chapter shall be reported and the tax shall be paid with respect thereto in the same manner as gross proceeds from the sale, rental or lease of tangible personal property and in accordance with such rules and regulations as the
commissioner may prescribe.

(e) [Deleted by 2007 amendment, effective July 1, 2019.]

(f) Notwithstanding any law to the contrary, when a taxpayer is required to remit payments electronically as set forth in § 67-1-703(b), then all returns required by this chapter that are associated with such payments shall be filed electronically using a method approved by the commissioner. When any taxpayer is required to file returns and remit payments electronically for any one (1) outlet, location or other place of business, the commissioner may require the taxpayer to file returns and remit payments electronically for each place of business of the taxpayer. The requirement to file electronically shall continue thereafter until such time as the commissioner advises the taxpayer to file by another method. In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. The commissioner is authorized to require that any such paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars ($25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars ($500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under § 67-1-803.

(h) In computing the tax due or to be collected as the result of any transaction, the tax rate shall be the sum of the applicable state and local rate, if any, and the tax computation shall be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded to the next whole cent.

(i) A seller may elect to compute the tax due on a transaction on either an item or an invoice basis, and may apply the rounding rule provided for in subsection (h) to the aggregated state and local taxes. A seller shall not be required to collect the tax on a bracket system.

(j)(1) Any dealer making sales subject to the tax imposed by this chapter may choose to collect and remit taxes as a Model 1 or Model 2 seller, subject to this subsection (j). For purposes of this subsection (j), tax includes any associated interest and penalty.

(2)(A) A dealer choosing Model 1 shall contract with a certified service provider and shall permit the certified service provider to determine the tax due, collect the tax, file returns, and remit the tax to the appropriate state on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. A Model 1 seller's liability to this state for the tax levied by this chapter is limited to the tax due on its own purchases, the tax due on any of its sales, leases, or rentals made outside the system provided by the certified service provider, and the tax due in the event of fraud by the Model 1 seller. The certified service provider shall not have any additional liability for state or local option taxes imposed by this chapter, if:

(i) The Model 1 seller charged and collected an incorrect amount of sales or use tax in reliance on erroneous data made available for review but not discovered during the certification of the certified service provid-
er’s automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct the automated system. The commissioner may allot additional time upon a showing by the certified service provider of the need for additional time to correct the automated system; or

(ii) An item or transaction is incorrectly classified as to its taxability within the certified service provider’s automated system that was certified by this state; provided, that the taxability error is corrected within ten (10) days of the date of the notification by the commissioner to correct the automated system.

(B) Beginning on the first day after the allotted period of time to correct the certified service provider’s automated system, the certified service provider shall be liable for the tax, penalty and interest resulting from the failure to correct the certified service provider’s automated system. This subdivision (j)(2) does not apply to errors in charging and collecting or remitting sales or use tax that are the result of classifying the item or transaction within a defined term or other classification within the certified service provider’s automated system.

(3) A dealer choosing Model 2 shall use a certified automated system to determine the tax due on all of its sales, leases, or rentals of tangible personal property or services that are subject to the tax levied by this chapter. Model 2 sellers shall not have any additional liability for state or local option taxes imposed by this chapter, if the Model 2 seller charged and collected or remitted an incorrect amount of sales or use tax in reliance on the certification of the certified automated system; provided, that the error is corrected within ten (10) days of the date of notification by the commissioner to correct or notification by the provider of the certified automated system of the availability of updates to correct the certified automated system. Beginning on the eleventh day, the Model 2 seller shall be liable for the tax, penalty, and interest resulting from the failure to correct or update the certified automated system for errors resulting from reliance on the certification.

(k) A certified service provider has, and is subject to, all of the rights, liabilities, duties and responsibilities imposed by this chapter as if it were the Model 1 seller for whom the certified service provider has agreed to perform all sales and use tax functions, except the Model 1 seller’s obligation to remit tax on its own purchases.

(l) The commissioner may enter into contracts with certified service providers for the collection and reporting of the tax imposed under this chapter. The commissioner may enter into the contracts in conjunction with other states.

67-6-528. Common carriers seeking reduced rate — Applications — Certificates. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) Common carriers seeking to make purchases subject to the reduced rate provided in part 2 of this chapter shall apply to the commissioner for a certificate. This application shall be made upon forms provided by the commissioner and shall require information deemed necessary by the commissioner to establish that the applicant is a common carrier making purchases of tangible personal property for use outside this state. The certificate may be revoked by the commissioner at any time, if the commissioner finds that the
holder no longer meets the conditions precedent for the reduced rate.

(b) Common carriers making purchases subject to the reduced rate provided in part 2 of this chapter shall keep records of all such purchases, establishing to the satisfaction of the commissioner that items purchased were not used in Tennessee, but were removed from this state for use and consumption outside this state.

67-6-528. Common carriers seeking reduced rate — Applications — Certificates. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) Common carriers and commercial air carriers seeking to make purchases exempt from tax pursuant to § 67-6-385 or § 67-6-386 shall apply to the commissioner for a certificate. This application shall be made upon forms provided by the commissioner and shall require information deemed necessary by the commissioner to establish that the applicant is a common carrier making purchases of tangible personal property for use outside this state, or is a commercial air carrier that actually uses aviation fuel in the operation of airplanes or aircraft motors. The certificate may be revoked by the commissioner at any time, if the commissioner finds that the holder no longer meets the conditions precedent for the exemption.

(b) Common carriers making purchases exempt from tax pursuant to § 67-6-385 shall keep records of all the purchases establishing to the satisfaction of the commissioner that items purchased were not used in Tennessee but were removed from this state for use and consumption outside this state.

(c) Commercial air carriers making purchases exempt from tax pursuant to § 67-6-386 shall keep records of the purchases establishing to the satisfaction of the commissioner that the fuel was actually used in the operation of airplanes or aircraft motors.

67-6-536. Returns submitted by Model 1 and 2 sellers — Informational return — Electronic payments — Due dates. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) Model 1 or 2 sellers with business locations in this state shall submit their returns in a format required by the commissioner. Model 1 or 2 sellers that do not have business locations in this state may submit their returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement; provided, however, that all of the returns shall be filed electronically.

(b) Notwithstanding any law to the contrary, the commissioner is authorized to require Model 1 or 2 sellers that submit returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement to submit once a year an informational return as permitted by the member states to the Streamlined Sales and Use Tax Agreement.

(c) Notwithstanding the provisions of § 67-1-703 to the contrary, all remittances from Model 1 or 2 sellers shall be made electronically, using ACH Credit or ACH Debit processes. The commissioner is authorized to provide for an alternative method of making the payment in the event the electronic funds transfer process fails.

(d) Notwithstanding any law to the contrary, a seller that is registered using the central registration system provided by states that are members of the
Streamlined Sales and Use Tax Agreement, does not have a legal requirement to register in this state, is not a Model 1 or 2 seller, and has not accumulated more than one thousand dollars ($1,000) in state and local sales and use taxes shall be permitted to file a sales and use tax return at any time within one (1) year of the month of initial registration and shall be permitted to file future returns on an annual basis in succeeding years. The returns shall be due the twentieth day of the month following the tax period covered by the return. A seller that has accumulated state and local sales and use tax funds in the amount of one thousand dollars ($1,000) shall file a return by the twentieth day of the month following the month in which the accumulated taxes reach or exceed one thousand dollars ($1,000). Nothing in this subsection (d) shall relieve a seller who collects state sales or use tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.

67-6-536. Returns submitted by Model 1 and 2 sellers — Informational return — Electronic payments — Due dates. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) Model 1 or 2 sellers may submit their returns in such format as required by the member states to the Streamlined Sales and Use Tax Agreement; provided, however, that all such returns shall be filed electronically.

(b) Notwithstanding any law to the contrary, the commissioner is authorized to require Model 1 or 2 sellers that submit returns in a format adopted by the member states to the Streamlined Sales and Use Tax Agreement to submit once a year an informational return as permitted by the member states to the Streamlined Sales and Use Tax Agreement.

(c) Notwithstanding the provisions of § 67-1-703 to the contrary, all remittances from Model 1 or 2 sellers shall be made electronically, using ACH Credit or ACH Debit processes. The commissioner is authorized to provide for an alternative method of making the payment in the event the electronic funds transfer process fails.

(d) Notwithstanding any law to the contrary, a seller that is registered using the central registration system provided by states that are members of the Streamlined Sales and Use Tax Agreement, does not have a legal requirement to register in this state, is not a Model 1 or 2 seller, and has not accumulated more than one thousand dollars ($1,000) in state and local sales and use taxes shall be permitted to file a sales and use tax return at any time within one (1) year of the month of initial registration and shall be permitted to file future returns on an annual basis in succeeding years. The returns shall be due the twentieth day of the month following the tax period covered by the return. A seller that has accumulated state and local sales and use tax funds in the amount of one thousand dollars ($1,000) shall file a return by the twentieth day of the month following the month in which the accumulated taxes reach or exceed one thousand dollars ($1,000). Nothing in this subsection (d) shall relieve a seller who collects state sales or use tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.
67-6-539. Bundled transactions — Telecommunications services. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a)(1) For purposes of this section, a bundled transaction means the retail sale of two (2) or more services, where:

(A) The services are otherwise distinct and identifiable; and
(B) The services are sold for one (1) nonitemized price.

(2) A bundled transaction does not include the sale of any services in which the sales price varies, or is negotiable, based on the selection by the purchaser of the services included in the transaction.

(b) Notwithstanding any other law to the contrary, in the case of a bundled transaction of telecommunication services, ancillary services, Internet access services, or audio or video programming services, or direct-to-home satellite television programming services:

(1) If the price is attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services shall be subject to tax, unless the provider can identify, by reasonable and verifiable standards, such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes;

(2) If the price is attributable to services that are subject to tax at different tax rates, the total price shall be treated as attributable to the services subject to tax at the highest tax rate, unless the provider can identify, by reasonable and verifiable standards, the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes;

(3) If the taxes that would have otherwise been collected on the distinct and identifiable services would have been designated to different funds or purposes, such designation shall be based on the same allocation utilized in subdivision (b)(1) or (b)(2). However, if the total of the bundled transaction was subjected to tax or subjected to tax at the higher combined state and local rate, a reasonable allocation method approved by the commissioner shall be made for designation of the taxes to the different funds or purposes.

(4) This section shall apply unless otherwise provided by federal law.

67-6-539. Bundled transactions — Telecommunications services. [Effective on July 1, 2019. See the version effective on July 1, 2019.]

(a) For purposes of the tax imposed by this chapter, a bundled transaction is subject to tax at the rate levied on the sale of tangible personal property at retail by § 67-6-202.

(b) Notwithstanding subsection (a) to the contrary, if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider can identify by reasonable and verifiable standards that portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, nontax purposes, in the case of a bundled transaction that includes any of the following:

(1) Telecommunication services;
(2) Ancillary services;
(3) Internet access services;
(4) Audio or video programming services; or
(5) Direct-to-home satellite television programming services.
(c) This section shall apply unless otherwise provided by federal law.

67-6-601. Certificate of registration — Required — Application. [Effective until July 1, 2019. See the version effective until July 1, 2019.]

(a) Every person desiring to engage in or conduct business as a dealer in this state shall file with the commissioner an application for a “certificate of registration” for each place of business.

(b) Any person who engages in the business of furnishing any of the things or services taxable under this chapter shall likewise apply for and obtain a certificate of registration as provided by this part.

(c) The commissioner may impose additional or different registration and/or reporting requirements as determined to be necessary by the commissioner in order to administer the allocation provisions of §§ 67-6-103 and 67-6-712, regarding sports authorities and public building authorities and industrial development corporations created pursuant to title 7, chapter 53.

(d) A person does not have a nexus with this state for sales and use tax purposes by reason of the relationship between the person and a commercial printer or mailer having a presence in this state.

67-6-702. Tax authorized — Rates — Termination of services tax. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a)(1) Any county, by resolution of its county legislative body, or any incorporated city or town, by ordinance of its governing body, is authorized to levy a tax on the same privileges subject to this chapter as the chapter may be amended, that are exercised within such county, city or town, to be levied and collected in the same manner and on all such privileges, but not to exceed two and three fourths percent (2.75%); provided, that the tax levied shall apply only to the first one thousand six hundred dollars ($1,600) on the
(2) Any five-dollar or seven-dollar and fifty-cent tax limit on the sale or use of any single article of personal property in effect at present may be removed, and, by resolution in the case of counties and by ordinance in the case of municipalities, the tax at the existing rate may, instead, be made to apply to the bases provided in subdivision (a)(1). The resolution or ordinance shall be passed at least twice at two (2) or more consecutive public meetings, not more than one (1) of which may be held on any single day. Notice of the meetings and of the fact that this matter is on the agenda of the meetings shall be published at least once in a newspaper of general circulation throughout the jurisdiction involved not less than seven (7) days before the first of the meetings. If the county or counties in which it is located does not increase the base of the county-wide local sales and use tax pursuant to this subdivision (a)(2), any municipality may by ordinance apply any county tax rate in effect in the municipality to the bases authorized in subdivision (a)(1) for purposes of the sale or use of any single article of personal property within the municipality’s corporate limits. The ordinance increasing the base of the county-wide tax within the municipality shall be adopted as required in this subdivision (a)(2).

(3) Once any local sales tax limit has been removed and the tax rate applied to the base provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body. For any municipality or county which implements a local sales tax for the first time after May 17, 1983, or during the phase-in period provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body.

(4) For the purpose of this part, persons engaged in the business of selling water shall be considered to be exercising a taxable privilege at the place where the tangible personal property is delivered to the purchaser.

(b) Notwithstanding other provisions of this chapter, with respect to water sold to or used by manufacturers at the state tax rate of one percent (1%) as authorized in § 67-6-206, the local tax thereon shall be imposed at the rate of one third of one percent (\(\frac{1}{3}\%\)) whenever the rate of the local tax does not exceed one percent (1%) and at the rate of one half of one percent (0.5%) whenever the rate of the local tax exceeds one percent (1%). The maximum local tax on the sale or use of any single article of industrial or farm machinery shall be as provided in subsection (a).

(c) A use tax paid by the lessee of tangible personal property from a lessor which is a tax exempt entity pursuant to an election made under § 67-6-204(b) shall be in lieu of any tax that might otherwise be imposed under this part, and no additional sales or use tax may be imposed under this part on rental payments with respect to which a use tax based on the purchase price of the tangible personal property has been paid by election.

(d) “Single article” means that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article. Parts or accessories for motor vehicles that are installed at the factory and delivered
with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or that are included as part of the sales price of the vehicle shall be treated as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer that are essential to the functioning of the motor vehicle or are required to be installed on the motor vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit.

(e) Notwithstanding any other provision of this chapter, with respect to sales of tangible personal property to common carriers for use outside this state subject to the reduced rate provided in part 2 of this chapter, the local tax thereon shall be at the rate of one and one half percent (1.5%). The maximum local tax on the sale or use of any single article of personal property shall be as provided in subsection (a).

(f) Notwithstanding any other provisions of this part, dealers with no location in this state may choose to pay, in lieu of the tax otherwise authorized by this part, local tax at the rate of two and twenty-five hundredths percent (2.25%) of the sales price on all sales made in this state.

(g)(1) Notwithstanding any other provisions of this chapter, local tax with respect to interstate or international telecommunications services, that are subject to state tax shall be imposed at the rate of one and one half percent (1.5%); provided, that interstate and international telecommunications services to businesses are exempt from local tax.

(2) Notwithstanding any other provisions of this chapter, local tax with respect to intrastate telecommunications services and ancillary services that are subject to state tax, shall be imposed at the rate of two and one half percent (2.5%).

(3) Local tax with respect to "prepaid calling services" and "prepaid wireless calling services" that are subject to tax shall be imposed at the rate of tax levied on the sale of tangible personal property at retail by subsection (a) and at the time of the retail sale of prepaid calling service and prepaid wireless calling service.

(4) Notwithstanding any other provisions of this chapter, local tax with respect to specified digital products that are subject to state tax shall be imposed at the rate of two and one half percent (2.5%).

(h) Notwithstanding any other law to the contrary, sales of tangible personal property upon which a state sales and use tax is levied shall be subject to a local sales and use tax at the rate of two and one quarter percent (2.25%) when obtained from any vending machine or device.
67-6-702. Tax authorized — Rates — Termination of services tax. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a)(1) Any county by resolution of its county legislative body or any incorporated city or town by ordinance of its governing body is authorized to levy a tax on the same privileges subject to this chapter that are exercised within the county, city or town, to be levied and collected in the same manner and on all such privileges but not to exceed two and three fourths percent (2.75%); provided, that the tax levied shall apply only to the first one thousand six hundred dollars ($1,600) on the sale or use of any single article of personal property; provided further, that the tax levied on the sale, purchase, use, consumption of electricity, piped natural or artificial gases, or other heating fuels delivered by the seller shall be one half of one percent (0.5%).

(2) Any five-dollar or seven-dollar and fifty-cent tax limit on the sale or use of any single article of personal property in effect at present may be removed, and, by resolution in the case of counties and by ordinance in the case of municipalities, the tax at the existing rate may, instead, be made to apply to the bases provided in subdivision (a)(1). The resolution or ordinance shall be passed at least twice at two (2) or more consecutive public meetings, not more than one (1) of which may be held on any single day. Notice of the meetings and of the fact that this matter is on the agenda of the meetings shall be published at least once in a newspaper of general circulation throughout the jurisdiction involved not less than seven (7) days before the first of the meetings. If the county or counties in which it is located does not increase the base of the county-wide local sales and use tax pursuant to this subdivision (a)(2), any municipality may by ordinance apply any county tax rate in effect in the municipality to the bases authorized in subdivision (a)(1) for purposes of the sale or use of any single article of personal property within the municipality’s corporate limits. The ordinance increasing the base of the county-wide tax within the municipality shall be adopted as required in this subdivision (a)(2).

(3) Once any local sales tax limit has been removed and the tax rate applied to the base provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body. For any municipality or county that implements a local sales tax for the first time after May 17, 1983, or during the phase-in period provided in subdivision (a)(1), future increases in the base beginning on the dates specified in subdivision (a)(1) shall be automatic and shall not require further action of the local governing body.

(4) For the purpose of this part, persons engaged in the business of selling water shall be considered to be exercising a taxable privilege at the place where the tangible personal property is delivered to the purchaser.

(b) A use tax paid by the lessee of tangible personal property from a lessor that is a tax exempt entity pursuant to an election made under § 67-6-204(c) shall be in lieu of any tax that might otherwise be imposed under this part, and no additional sales or use tax may be imposed under this part on rental payments with respect to which a use tax based on the purchase price of the tangible personal property has been paid by election.

(c) “Single article” means that which is regarded by common understanding
as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation; provided, however, and notwithstanding any other law to the contrary, that single article applies only to motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes and only those items shall be regarded as single articles. Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer or distributor, or both, prior to sale, at the time of the sale, or that are included as a part of the sales price of the vehicle shall be treated as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer that are essential to the functioning of the motor vehicle or are required to be installed on the motor vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article.

(d) Notwithstanding any other law to the contrary, sales of tangible personal property upon which a state sales and use tax is levied shall be subject to a local sales and use tax at the rate of two and one quarter percent (2.25%) when obtained from any vending machine or device.

67-6-704. Exemptions. [Effective until July 1, 2019.]

No county or incorporated city or town is authorized to levy any tax on the sale, purchase, use, consumption or distribution of electric power or energy, or of natural or artificial gas, or coal and fuel oil or steam and chilled water produced and distributed by an energy resource recovery facility operated in a county with a metropolitan form of government.

67-6-706. Referendum. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a)(1) Any ordinance or resolution of a county or of a city or town levying the tax under authority of this part shall not become operative until approved in an election herein provided in the county or the city or town, as the case may be.

(2) The county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote “FOR” or “AGAINST” the ordinance or resolution, after the receipt of a certified copy of such ordinance or resolution, and a majority vote of those voting in the election shall determine whether the ordinance or resolution is to be operative.

(3) If the majority vote is for the ordinance or resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns; provided, however, that no tax shall be collected under any such ordinance or resolution until the first
day of a month occurring at least thirty (30) days after the operative date.
(b)(1) If a county legislative body adopts a resolution to levy the tax at the same rate that is operative in a city or town in the county, the election under this section to determine whether the county tax is to be operative shall be open only to the voters residing outside of such city or town. If the county tax is at a higher rate than the rate of the city or town tax, the election shall also be open to the voters of the city or town.

(2)(A) Except as provided in subdivision (b)(2)(B), should any county or city or town hold an election under this section, and the ordinance or resolution is rejected, no other election thereon shall be held by such county, city or town for a period of six (6) months from the date of the holding of such prior election.

(B) In counties having a population of not more than seven hundred fifty thousand (750,000) nor less than seven hundred thousand (700,000) and not more than two hundred seventy-eight thousand (278,000) and not less than two hundred fifty thousand (250,000), according to the federal census of 1970 or any subsequent federal census, in case of rejection, the limitation period on subsequent elections shall be one (1) year from the date of the holding of such prior election.

67-6-706. Referendum. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a)(1) Any ordinance or resolution of a county or of a city or town levying the tax under authority of this part shall not become operative until approved in an election herein provided in the county or the city or town, as the case may be.

(2) The county election commission shall hold an election on the question pursuant to § 2-3-204, providing options to vote “FOR” or “AGAINST” the ordinance or resolution, after the receipt of a certified copy of such ordinance or resolution, and a majority vote of those voting in the election shall determine whether the ordinance or resolution is to be operative.

(3) If the majority vote is for the ordinance or resolution, it shall be deemed to be operative on the date that the county election commission makes its official canvass of the election returns; provided, that no tax shall be collected under the ordinance or resolution until the earliest effective date allowed under this part.

(b)(1) If a county legislative body adopts a resolution to levy the tax at the same rate that is operative in a city or town in the county, the election under this section to determine whether the county tax is to be operative shall be open only to the voters residing outside of such city or town. If the county tax is at a higher rate than the rate of the city or town tax, the election shall also be open to the voters of the city or town.

(2)(A) Except as provided in subdivision (b)(2)(B), should any county or city or town hold an election under this section, and the ordinance or resolution is rejected, no other election thereon shall be held by such county, city or town for a period of six (6) months from the date of the holding of such prior election.

(B) In counties having a population of not more than seven hundred fifty thousand (750,000) nor less than seven hundred thousand (700,000) and not more than two hundred seventy-eight thousand (278,000) and not less
than two hundred fifty thousand (250,000), according to the federal census of 1970 or any subsequent federal census, in case of rejection, the limitation period on subsequent elections shall be one (1) year from the date of the holding of such prior election.

67-6-710. Collection and administration. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a)(1) In collecting and administering the tax levied under the authority of this part, the commissioner of revenue shall have the same powers as the commissioner has in collecting and administering the state sales tax.

(2) Rules and regulations promulgated by the commissioner under §§ 67-1-102 and 67-6-402 shall be applicable to the tax levied under the authority of this part, and shall be binding on cities, counties, and towns, and interest and penalty for delinquencies shall be imposed equal to the rates provided in § 67-6-516.

(b)(1) The department of revenue shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected; provided, that the department has determined that such collection of the tax is feasible, and has promulgated rules and regulations governing such collection.

(2) The department shall remit the proceeds of the tax to the county, city or town levying the tax, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection. This percentage shall be one and one hundred twenty-five thousandths percent (1.125%). The percentage shall not be less than necessary to defray the state’s expenses in administering, collecting, and remitting the local sales tax, as determined annually by the department and certified by the comptroller of the treasury.

(c) The county, city or town shall furnish a certified copy of the adopting resolution or ordinance to the department of revenue in accordance with regulations prescribed by the department.

(d)(1) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedy provided in chapter 1, part 18 of this title, it being the intention of the general assembly that law which applies to the recovery of state taxes illegally assessed or collected be conformed to apply to the recovery of taxes illegally assessed or collected under the authority of this part.

(2) The resolution or ordinance levying the tax shall designate the county or municipal officer against whom suit may be brought for recovery.

(e)(1) Proceeds of the tax provided for in § 67-6-702(f), shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (e)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(3) A county and a municipality may, by contract, provide for an alternative distribution for the amount not distributed under § 67-6-712(a)(1).

(f) Proceeds of the taxes provided for in § 67-6-702(g) shall be distributed as follows:
(1) Fifty percent (50%) shall be distributed as provided in subsection (e); and

(2) Fifty percent (50%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other censuses authorized by law. Counties and incorporated municipalities shall use such funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712.

(g)(1) Proceeds of the tax on sales of tangible personal property obtained from any vending machine or device as provided for in § 67-6-702 shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (g)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(h)(1) Notwithstanding any provision of law to the contrary, the commissioner, based upon reporting of exempt sales under § 67-6-393 and any other data or information the commissioner deems relevant, shall substantially reimburse counties and municipalities for the loss of local tax under this part resulting from the exemption provided by § 67-6-393. The amount of the reimbursement shall be approximately equal to the aggregate amount of local tax that would have been collected under this part on the sale or use of goods otherwise taxable but for § 67-6-393.

(2) If the loss of local tax subject to reimbursement under this subsection (h) cannot be identified to a particular situs, the amount of the reimbursement shall be distributed to the counties based on the ratio of total local tax collections in the county under this part over the total local tax collections in all counties under this part. The amount received by the county under this subdivision (h)(2) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to each municipality in the county based on the ratio of total collections in that municipality over the total collections in the county and shall be distributed to the county based on the ratio of total collections in the unincorporated portions of the county over the total collections in the county.

(3) Notwithstanding any provision of § 67-6-103 to the contrary, the distribution required by this subsection (h) shall be made from state sales tax collections prior to distribution under § 67-6-103; provided, however, that no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 856 of the Acts of 2002.

67-6-710. Collection and administration. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a)(1) In collecting and administering the tax levied under the authority of this part, the commissioner of revenue shall have the same powers as the
commissioner has in collecting and administering the state sales tax.

(2) Rules and regulations promulgated by the commissioner under §§ 67-1-102 and 67-6-402 shall be applicable to the tax levied under the authority of this part, and shall be binding on cities, counties, and towns, and interest and penalty for delinquencies shall be imposed equal to the rates provided in § 67-6-516.

(b)(1) The department of revenue shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected; provided, that the department has determined that such collection of the tax is feasible, and has promulgated rules and regulations governing such collection.

(2) The department shall remit the proceeds of the tax to the county, city or town levying the tax, less a reasonable amount of percentage as determined by the department to cover the expenses of administration and collection. This percentage shall be one and one hundred twenty-five thousandths percent (1.125%). The percentage shall not be less than necessary to defray the state's expenses in administering, collecting, and remitting the local sales tax, as determined annually by the department and certified by the comptroller of the treasury.

(c) The county, city or town shall furnish a certified copy of the adopting resolution or ordinance to the department of revenue in accordance with regulations prescribed by the department.

(d)(1) Upon any claim of illegal assessment or collection, the taxpayer shall have the remedy provided in chapter 1, part 18 of this title, it being the intention of the general assembly that law which applies to the recovery of state taxes illegally assessed or collected be conformed to apply to the recovery of taxes illegally assessed or collected under the authority of this part.

(2) The resolution or ordinance levying the tax shall designate the county or municipal officer against whom suit may be brought for recovery.

(e) [Deleted by 2007 amendment, effective July 1, 2019.]

(f) [Deleted by 2007 amendment, effective July 1, 2019.]

(g)(1) Proceeds of the tax on sales of tangible personal property obtained from any vending machine or device as provided for in § 67-6-702 shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (g)(1) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

(h)(1) Notwithstanding any provision of law to the contrary, the commissioner, based upon reporting of exempt sales under § 67-6-393 and any other data or information the commissioner deems relevant, shall substantially reimburse counties and municipalities for the loss of local tax under this part resulting from the exemption provided by § 67-6-393. The amount of the reimbursement shall be approximately equal to the aggregate amount of local tax that would have been collected under this part on the sale or use of goods otherwise taxable but for § 67-6-393.

(2) If the loss of local tax subject to reimbursement under this subsection (h) cannot be identified to a particular situs, the amount of the reimbursement shall be distributed to the counties based on the ratio of total local tax
collections in the county under this part over the total local tax collections in all counties under this part. The amount received by the county under this subdivision (h)(2) shall be distributed first as provided for in § 67-6-712(a)(1). The remainder shall be distributed to each municipality in the county based on the ratio of total collections in that municipality over the total collections in the county and shall be distributed to the county based on the ratio of total collections in the unincorporated portions of the county over the total collections in the county.

(3) Notwithstanding any provision of § 67-6-103 to the contrary, the distribution required by this subsection (h) shall be made from state sales tax collections prior to distribution under § 67-6-103; provided, however, that no portion of the revenue derived from the increase in the rate of sales and use tax from six percent (6%) to seven percent (7%) contained in chapter 856, § 4 of the Public Acts of 2002 shall be distributed pursuant to this subsection (h). All such revenue shall continue to be allocated as provided in chapter 856 of the Acts of 2002.

67-6-712. Distribution of revenue. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) The tax levied by a county under this part shall be distributed as follows:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and

(2) The other one-half (½) as follows:

(A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall direct;

(B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;

(C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

(3) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (2); provided, that the pledge by a county of proceeds to which it is entitled under subdivision (a)(1) shall not be effective, unless approved by resolution of the county board of education.

(b)(1) County trustees in counties having populations of seven hundred thousand (700,000) or more, according to the 1980 federal census or any subsequent federal census, shall not be entitled to receive compensation for receiving and distributing the taxes under subsection (a), notwithstanding § 8-11-110 or any other law to the contrary.

(2) This subsection (b) shall have no effect, unless it is approved by a two-thirds (%2) vote of the legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by such presiding officer to the secretary of state.
(c)(1)(A) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association) or major or minor league professional hockey (National Hockey League or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of local tax revenue derived from the sale of admissions to the events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(B) In addition, if an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to two-thirds ($\frac{2}{3}$) of the amount of the allocation of local tax revenue under subdivision (a)(2) derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the indoor sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(C) For the purpose of this subsection (c), “municipality” means any incorporated city or county located in this state.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (c)(1).

(d) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this part shall be earmarked and allocated in accordance with title 7, chapter 88.
67-6-712. Distribution of revenue. [Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) The tax levied by a county under this part shall be distributed as follows:

(1) One-half (½) of the proceeds shall be expended and distributed in the same manner as the county property tax for school purposes is expended and distributed; and

(2) The other one-half (½) as follows:

(A) Collections for privileges exercised in unincorporated areas, to such fund or funds of the county as the governing body of the county shall direct;
(B) Collections for privileges exercised in incorporated cities and towns, to the city or town in which the privilege is exercised;
(C) However, a county and city or town may by contract provide for other distribution of the one-half (½) not allocated to school purposes.

(3) Any county, city, town, incorporated area or special school district entitled to receive the proceeds described in subdivisions (a)(1) and (2) has the power and authority, by resolution of the governing body thereof, to pledge such proceeds to the punctual payment of principal of and interest on bonds, notes or other evidence of indebtedness issued for the purpose for which such proceeds are permitted to be spent pursuant to such subdivisions (a)(1) and (2); provided, that the pledge by a county of proceeds to which it is entitled under subdivision (a)(1) shall not be effective, unless approved by resolution of the county board of education.

(b)(1) County trustees in counties having populations of seven hundred thousand (700,000) or more, according to the 1980 federal census or any subsequent federal census, shall not be entitled to receive compensation for receiving and distributing the taxes under subsection (a), notwithstanding § 8-11-110 or any other law to the contrary.

(2) This subsection (b) shall have no effect, unless it is approved by a two-thirds (2/3) vote of the legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by such presiding officer to the secretary of state.

(c)(1)(A) Notwithstanding the allocations provided for in subsection (a), if there exists in a municipality a sports authority organized pursuant to title 7, chapter 67, and if that sports authority has secured a major league professional baseball (American or National League), football (National Football League or Canadian Football League, or its successors or assigns), basketball (National Basketball Association) or major or minor league professional hockey (National Hockey League or Central Hockey League or East Coast Hockey League) franchise for that municipality, and only if the municipality or any board or instrumentality of the municipality reimburses the state for any costs to reallocate apportionments of the tax revenue under this section, then an amount shall be apportioned and distributed to the municipality equal to the amount of local tax revenue derived from the sale of admissions to the events of the major or minor league professional sports franchise and also the sale of food and drink sold on the premises of the sports facility in conjunction with those games, parking charges, and related services, as well as the sale by the major or minor league professional sports franchise within the county in which the games take place of authorized franchise goods and products associated with the franchise’s operations as a professional sports franchise. The amount distributed to the
municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(B) In addition, if an indoor sports facility owned by a sports authority organized pursuant to title 7, chapter 67, in which a professional sports franchise is a tenant, exists in a county with a metropolitan form of government, then an amount shall be apportioned and distributed to the municipality equal to two-thirds ($\frac{2}{3}$) of the amount of the allocation of local tax revenue under subdivision (a)(2) derived from the sale of admissions to all other events occurring at such indoor sports facility and from all other sales of food and drink and other authorized goods or products sold on the premises of the indoor sports facility, parking charges, and related services. Such amounts distributed to the municipality shall be for the exclusive use of the sports authority, or comparable municipal agency formally designated by the municipality, in accordance with title 7, chapter 67. Such amounts shall be used exclusively for the payment of, or the reimbursement of expenses associated with securing current, expanded, or new events for indoor sports facilities owned by a municipal agency formally designated by the municipality, in accordance with title 7, chapter 67.

(C) For the purpose of this subsection (c), “municipality” means any incorporated city or county located in this state.

(2) Any bonds issued relative to the construction of a sports facility shall not be issued for a term longer than thirty (30) years from the date the first game is played by the professional sports franchise in a municipality, as defined in subdivision (c)(1).

(d) Notwithstanding the provisions of this section to the contrary, revenue derived from taxes imposed by this part shall be earmarked and allocated in accordance with title 7, chapter 88.

(e)(1) When local sales tax revenues received by the department cannot be identified to a particular situs, the following distribution shall be made:

(A) Fifty percent (50%) shall be distributed to incorporated municipalities in the proportion that the population of each bears to the aggregate population of the state and to counties in the proportion the population of unincorporated areas of the county bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law. Counties and incorporated municipalities shall use the funds in the same manner and for the same purposes as funds distributed pursuant to this section; and

(B) Fifty percent (50%) shall be distributed to the counties based on the ratio of local tax collections in the county under this section over total tax collections in all counties under this section.

(2) The amount received by the county under subdivision (e)(1)(B) shall be distributed first as provided for in subdivision (a)(1). The remainder shall be distributed to the cities or towns in the county based on the ratio of total collections in the municipality to total collections in the county.

67-6-714. Local option tax exemption for cable or wireless cable television services. [Effective until July 1, 2019.]

There is exempt from the local option tax fees for subscription to, access to or use of television programming or television services provided by a video
programming services provider offered for public consumption up to but not exceeding twenty-seven dollars and fifty cents ($27.50) per month.

67-6-715. Refund of local tax on purchase of single article. [Effective on July 1, 2019.]  
   (a) The commissioner shall refund the portion of the local tax imposed by this chapter that is attributable to the amendment of the single article provision of the Local Option Revenue Act, compiled in this part, for any taxpayers that pay business tax under chapter 4, part 7 of this title; franchise and excise tax under chapter 4, parts 20 and 21 of this title; or sales and use tax under this chapter.  
   (b) The refund provided for by this section shall be limited to the difference in tax paid by the person entitled to such refund and the tax that would have been paid on the first three thousand two hundred dollars ($3,200) of the sale price of a single article as defined in § 67-6-702 on tangible personal property other than motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes prior to July 1, 2009. The refund shall only be allowed on tangible personal property purchased by the taxpayer for use in the business for which the taxpayer is registered under subsection (a).  
   (c) A person entitled to a refund pursuant to this section shall make a single yearly claim for refund to the commissioner, covering a period of twelve (12) consecutive calendar months, the period to be specified by the commissioner. The commissioner is authorized to make refunds pursuant to this section, provided a claim is filed with the commissioner, under oath and supported by proper proof, within six (6) months after the end of the twelve-month period covered by the claim. Section 67-1-1802 does not apply to refunds made pursuant to this section.  
   (d)(1) In lieu of filing a claim for refund a dealer registered for sales and use tax may take a credit on its sales and use tax return for the tax that would be refundable under subsection (b). Any dealer that takes this credit on its sales and use tax return must file on an annual basis an information report with the commissioner. This information report shall be in a format approved by the commissioner and shall contain sufficient information for the commissioner’s delegates to verify the validity of a credit taken under this section. This information report shall include:  
         (A) Information showing that the item would have qualified as a single article under § 67-6-702 prior to July 1, 2009;  
         (B) The amount of the Tennessee sales tax remitted on the single article;  
         (C) The local jurisdiction to which the tax was paid;  
         (D) If applicable, information regarding the vendor to whom the tax was paid; and  
         (E) Such other information as necessary to determine the validity of the credit taken.  
         (2) This information report shall be filed within sixty (60) days of the close of each calendar year in which a credit was taken on any sales and use tax return.

67-6-716. Notice of change in local tax rate — Effective date of change — Local jurisdiction boundary changes. [Effective on July 1, 2019.]  

Notwithstanding any other provision in this part:
(1) A local tax imposed under this part or change in a local tax rate shall become effective only on the first day of a calendar quarter and no sooner than sixty-one (61) days after the commissioner has issued general notification of the new tax or change in the rate to dealers affected; provided, however, that the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; provided further, that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation;

(2) Notwithstanding subdivision (1), with respect to purchases from printed catalogs where the purchaser computes the tax based on local rates published in the catalog, a local tax imposed under this part or change in a local tax rate shall become effective only on the first day of a calendar quarter and no sooner than one hundred twenty-one (121) days after the commissioner has issued general notification of the new tax or change in the rate to dealers affected; provided, however, that the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; provided further, that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation; and

(3) For sales and use tax purposes only, local jurisdiction boundary changes shall become effective only on the first day of a calendar quarter and no sooner than sixty-one (61) days after the commissioner has issued general notification of the new tax or change in the rate to dealers affected; provided, however, that the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; provided further, that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation.

67-6-901. Application. [Effective on July 1, 2019.]

(a) Notwithstanding any other law to the contrary, this part shall apply in determining whether a transaction is subject to the tax levied under this chapter, and if so, in determining the applicable local tax levied under part 7 of this chapter. This part applies regardless of the characterization of a product as tangible personal property, a digital product, or a service, and applies only to determine a seller’s obligation to pay or collect and remit a sales or use tax with respect to the seller’s retail sale of a product. This part does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(b) Nothing in this part is intended to impose tax on a transaction if a state tax on the transaction is prohibited by the United States constitution or the constitution of this state.

(c) The general provisions of §§ 67-6-902 — 67-6-905 do not apply to sales or use taxes levied on the following, except as specifically provided for in this subsection (c); instead the special provisions of § 67-6-906 shall apply to:

(1) The retail sale or transfer of watercraft, manufactured homes, or mobile homes;

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-6-902(d). The retail sale of these items shall be sourced according to existing law as of July 1, 2009, and the lease or rental of these items shall be sourced according to § 67-6-902(d); and
(3) Telecommunications services and ancillary services, as set out in § 67-6-905, shall be sourced in accordance with that section.

67-6-902. Sourcing — Retail sales — Lease or rental of tangible personal property — Lease or sale of non-transportation equipment vehicles — Retail sales of transportation equipment. [Effective on July 1, 2019.]

(a) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser’s donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser, or donee, known to the seller;

(3) When subdivisions (a)(1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller’s business when use of this address does not constitute bad faith;

(4) When subdivisions (a)(1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser’s payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(5) When none of the previous rules of subdivisions (a)(1), (a)(2), (a)(3) or (a)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital product or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(b)(1) The lease or rental of tangible personal property, other than property identified in subsection (c) or (d), shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with subsection (a). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

(B) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (a).

(2) Subdivision (b)(1) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or
on the acquisition of property for lease.

(c)(1) The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (d), and watercraft with a displacement of under fifty (50) tons, shall be sourced as follows:

(A) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

(B) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with subsection (a).

(2) Subdivision (c)(1) does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(d)(1) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with subsection (a), notwithstanding the exclusion of lease or rental in subsection (a).

(2) For the purpose of this part, “transportation equipment” means any of the following:

(A) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

(B) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one pounds (10,001 lbs.) or greater, trailers, semi-trailers, or passenger buses that are:

(i) Registered through the International Registration Plan; and

(ii) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(C) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(D) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (d)(2)(A)-(C).

(e)(1) For the purposes of subsection (a), “receive” and “receipt” mean:

(A) Taking possession of tangible personal property;

(B) Making first use of services; or

(C) Taking possession or making first use of digital products, whichever comes first.

(2) “Receive” and “receipt” do not include possession by a shipping company on behalf of the purchaser.

67-6-904. Direct mail certificate. [Effective on July 1, 2019.]

(a) Notwithstanding § 67-6-902, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the
purchase either a Streamlined Sales Tax certificate of exemption form claiming direct mail or information to show the jurisdictions to which the direct mail is delivered to recipients.

(1) Upon receipt of the certificate of exemption, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A certificate of exemption claiming direct mail shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a certificate of exemption claiming direct mail or delivery information, as required by subsection (a), the seller shall collect the tax according to § 67-6-902(a)(5). Nothing in this subsection (b) shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a Streamlined Sales Tax certificate of exemption claiming direct mail or delivery information to the seller.

67-6-905. Source of sales of telecommunication services — Definitions. [Effective until July 1, 2019. See the version effective on July 1, 2019.]

(a) As used in this section, unless the context otherwise requires:

(1) “Air-to-ground radiotelephone service” means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(2) “Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls;

(3) “Communications channel” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(4) “Customer” means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this provision only applies for the purpose of sourcing sales of telecommunications services under this section. “Customer” does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area;

(5) “Customer channel termination point” means the location where the customer either inputs or receives the communications;

(6) “End user” means the person who utilizes the telecommunication service. In the case of an entity, “end user” means the individual who utilizes
the service on behalf of the entity;

(7) “Home service provider” means the same as that term is defined in 4 U.S.C. § 124(5);

(8) “Mobile telecommunications service” means the same as that term is defined in 4 U.S.C. § 124(7);

(9) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, “place of primary use” must be within the licensed service area of the home service provider;

(10) “Post-paid calling service” means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service;

(11) “Private communication service” means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels; and

(12) “Service address” means:

(A) The location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subdivision (a)(12)(A) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller; and

(C) If the locations in subdivisions (a)(12)(A) and (a)(12)(B) are not known, the service address means the location of the customer’s place of primary use.

(b) Except for the defined telecommunication services in subsection (d), the sale of telecommunication service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call:

(1) Originates and terminates in that jurisdiction; or

(2) Either originates or terminates and in which the service address is also located.

(c) Except for the defined telecommunication services in subsection (d), a sale of telecommunications services sold on a basis other than a call-by-call basis and ancillary services are sourced to the customer’s place of primary use.

(d) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:
A sale of mobile telecommunications services other than air-to-ground radiotelephone service is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act, compiled in 4 U.S.C. §§ 116-126;

(2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:
   (A) The seller's telecommunications system; or
   (B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(3) A sale of a private communication service is sourced as follows:
   (A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located;
   (B) Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;
   (C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located; and
   (D) Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

67-6-905. Source of sales of telecommunication services — Definitions.
[Effective on July 1, 2019. See the version effective until July 1, 2019.]

(a) Except for the defined telecommunication services in subsection (c), the sale of telecommunication service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call:
   (1) Originates and terminates in that jurisdiction; or
   (2) Either originates or terminates and in which the service address is also located.

(b) Except for the defined telecommunication services in subsection (c), a sale of ancillary services or telecommunications services sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(c) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:
   (1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act, compiled in 4 U.S.C. §§ 116-126;
   (2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:
      (A) The seller's telecommunications system; or
      (B) Information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;
(3) A sale of a prepaid calling service, or a sale of a prepaid wireless calling service, is sourced in accordance with § 67-6-902; provided, however, that, in the case of a sale of prepaid wireless calling service, the rule provided in § 67-6-902(a)(5) shall include as an option the location associated with the mobile telephone number; and

(4) A sale of a private communication service is sourced as follows:

(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located;

(B) Service where all customer termination points are located entirely within one (1) jurisdiction or levels of jurisdiction is sourced in the jurisdiction where the customer channel termination points are located;

(C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located; and

(D) Service for segments of a channel located in more than one (1) jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(d) For the purpose of this section, unless the context otherwise requires:

(1) “Air-to-ground radiotelephone service” means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft;

(2) “Call-by-call basis” means any method of charging for telecommunications services where the price is measured by individual calls;

(3) “Communications channel” means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

(4) “Customer” means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this subdivision (d)(4) only applies for the purpose of sourcing sales of telecommunications services under this section. “Customer” does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider’s licensed service area;

(5) “Customer channel termination point” means the location where the customer either inputs or receives the communications;

(6) “End user” means the person who utilizes the telecommunication service. In the case of an entity, “end user” means the individual who utilizes the service on behalf of the entity;

(7) “Home service provider” means the same as that term is defined in the Mobile Telecommunication Sourcing Act, P.L. 106-252, codified in 4 U.S.C. § 124(5);

(8) “Mobile telecommunications service” means the same as that term is defined in 4 U.S.C. § 124(7);
(9) “Place of primary use” means the street address representative of where the customer’s use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, “place of primary use” must be within the licensed service area of the home service provider;

(10) “Post-paid calling service” means the telecommunications service obtained by making a payment on a call-by-call basis, either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service;

(11) “Prepaid calling service” means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount;

(12) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service, as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance, that is sold in predetermined units or dollars, of which the number declines with use in a known amount;

(13) “Private communication service” means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of the channel or channels; and

(14) “Service address” means:

(A) The location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(B) If the location in subdivision (d)(14)(A) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller; and

(C) If the locations in subdivisions (d)(14)(A) and (B) are not known, the service address means the location of the customer’s place of primary use.

67-6-906. Source of sales of watercraft, manufactured homes, mobile homes, or vehicles that do not qualify as transportation equipment. [Effective on July 1, 2019.]

(a) The retail sale, excluding the lease or rental, of watercraft with a displacement of less than fifty (50) tons and the sale or transfer, including lease or rental, of manufactured homes, or mobile homes; and the retail sale,
excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-6-902(d); shall be sourced as follows:

(1) If a dealer regularly engaged in making sales or transfers of the property being sold, the transaction is sourced to the business location of the dealer making the sale and the dealer shall collect the applicable state and local sales tax;

(2) If the sale or transfer of property is made by a dealer or person not regularly engaged in making sales or transfers of the property being sold, and the property is required by law to be registered, or titled, or both, by the county clerk or the agency with which the property is licensed, registered or otherwise recorded requires sales tax to be paid to the county clerk as a prerequisite, the clerk shall collect the applicable state and local sales or use tax at the rate applicable in the clerk's county jurisdiction;

(3) In all other situations where Tennessee sales or use tax is due but has not been paid by the purchaser, the purchaser shall file a use tax return with the commissioner and pay the applicable state and local tax. In that case, the purchaser shall pay the local use tax at the rate applicable in the county or municipality where the place of primary use of the property takes place; and

(4) For purposes of subdivision (a)(3), the place of primary use of the property shall be the owner's street address in this state. If the owner has more than one (1) address in this state, the place of primary use of the property shall be the primary street address at which the owner keeps the property. The property's place of primary use shall not be altered by intermittent use at different locations, such as the use of business property that accompanies employees on business trips and service calls.

(b) Notwithstanding any other law to the contrary, the retail sale, including the lease or rental, of watercraft with a displacement of fifty (50) tons or more shall be sourced under § 67-6-902(d).

67-6-907. Retail florist. [Effective on July 1, 2019.]

(a) For purposes of this section, a “retail florist” is a seller who is primarily engaged in the retail sale of cut flowers and floral arrangements that are primarily either sold over-the-counter or delivered locally by the same florist. For this purpose, the term “primarily” means more than fifty percent (50%) of the seller’s total gross sales or receipts are derived from that activity. In determining if a business is primarily a florist, the total sales price of cut flowers and floral arrangements includes all charges made by the florist to the purchaser of cut flowers and floral arrangements as separately stated delivery or service charges. All service, relay and any other charges for orders, including charges for long distance telephone calls and telegraph service that are separately stated and represent cost to the retail florist, without any mark-up, shall be considered to be part of the total selling price subject to the sales tax.

(b) Notwithstanding any other law to the contrary, the sale of cut flowers, floral arrangements, potted plants and any associated tangible personal property by a retail florist shall be sourced as follows:

(1) If the transaction takes place prior to July 1, 2009:

(A) The sale shall be sourced to the location of the florist that took the order from the purchaser, even if the florist forwards the order to another retail florist in a different taxing jurisdiction to prepare and deliver to the
recipient identified by the purchaser;

(B) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the retail florist’s taxing jurisdiction and remit the tax to the appropriate taxing authority; and

(C) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, the receiving florist shall not be held liable for tax with respect to any receipts that the florist may realize from the transaction.

(2) If the transaction takes place on or after July 1, 2009, and the retail florist taking the order forwards it to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser, the sale is sourced to the location in the taxing jurisdiction where delivery to the recipient, the purchaser’s donee, occurs, and:

(A) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the taxing jurisdiction where delivery to the recipient, the purchaser’s donee, occurs and remit the tax to the appropriate taxing authority; and

(B) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, the receiving florist shall not be held liable for sales or use tax with respect to any receipts that the florist may realize from the transaction.

68-1-128. High volume prescribers of controlled substances — High-risk prescribers based on clinical outcomes.

(a) No later than July 31, 2013, and at least annually thereafter but more often at the discretion of the commissioner, the department of health shall:

(1) Identify the top fifty (50) prescribers who have unique DEA numbers of controlled substances in the previous calendar year, or if implemented more frequently for the relevant time period as determined by the department, from the data available in the controlled substances database established pursuant to title 53, chapter 10, part 3;

(2) Send a letter through registered mail to each prescriber identified in subdivision (a)(1), and to the collaborating physician or physician supervisor, as appropriate, as found on the provider’s profile established in title 63, chapter 32 of each advanced practice registered nurse and each physician assistant identified in subdivision (a)(1) that notifies the prescribers and, where appropriate, the collaborating physician or supervising physician, as appropriate, that the prescriber has been identified pursuant to subdivision (a)(1) and includes the following information:

(A) The significant controlled substances prescribed by the prescriber;

(B) The number of patients prescribed these controlled substances by the prescriber;

(C) The total milligrams in morphine equivalents of controlled substances prescribed during the relevant period of time; and

(D) Any other relevant information sought by the department; and

(3) If there is an active investigation against the prescriber or, where appropriate the collaborating physician or supervising physician, as appropriate, on the list of prescribers identified in (a)(1), the department is authorized to withhold any communication required under this section until
such time as charges are brought or the investigation is closed.  
(b)(1)(A) At the discretion of the department, each prescriber and each 
collaborating physician or supervising physician, as appropriate, of an 
advanced practice registered nurse and physician assistant who appear on 
the top fifty (50) prescribers of controlled substances in the state and the 
top ten (10) prescribers of controlled substances in all of the counties 
combined having a population of less than fifty thousand (50,000), accord-
ing to the 2010 federal census or any subsequent federal census in the 
relevant period of time shall submit to the department within fifteen (15) 
business days through registered mail or electronic mail an explanation 
justifying the amounts of controlled substances prescribed in the relevant 
period of time by the prescriber demonstrating that these amounts were 
medically necessary for the patients treated and that, for advanced 
practice registered nurses and physician assistants, the collaborating 
physician or supervising physician, as appropriate, had reviewed and 
approved the prescribing amounts. The department shall consider the 
physician's specialty and the patients' ages to make a determination as to 
whether the explanation of the prescriber and, where appropriate the 
collaborating physician or supervising physician, as appropriate, for the 
physician's prescribing habits of the prescriber of controlled substances is justifiable.  
(B) The department is authorized to develop a model form to assist the 
prescriber and where appropriate the collaborating physician or supervis-
ing physician, as appropriate, in completing the explanation required by 
this subsection (b). 
(C) The department is authorized to contract with an expert reviewer to 
determine if the explanation is acceptable. Should charges ultimately be 
filed against the prescriber or, where appropriate the collaborating phy-
sician or supervising physician, as appropriate, any report of the expert 
reviewer shall be discoverable by the licensee.  
(2) If the department is not satisfied with any explanation by the 
prescriber or where appropriate a collaborating physician or supervising 
physician, as appropriate, it shall communicate via registered mail such 
concerns to the prescriber and, if appropriate, the collaborating physician or 
supervising physician, as appropriate. The prescriber and, if appropriate, 
the collaborating physician or supervising physician, as appropriate, shall 
have fifteen (15) business days to attempt to rectify the department's stated 
concerns.  
(3) If the department remains unsatisfied after receiving a justification 
pursuant to subdivision (b)(2), the department may submit its concerns to 
the member of the controlled substance database committee who represents 
the board which has licensed the individual. This member shall have access 
to all of the documents pertaining to the concerns of the department and the 
expert reviewer. If that member also believes that the explanations which 
have been provided are not sufficient to justify the prescribing pattern of the 
prescriber, the concerns may be forwarded to the department's office of 
investigations. Investigations are conducted by the entity responsible for 
licensure of that prescriber.  
(c)(1) In addition to identifying prescribers pursuant to subsections (a) and 
(b), beginning July 1, 2017, and annually thereafter, the department shall 
identify high-risk prescribers based on clinical outcomes, including patient 
overdoses. The determination of which providers are high-risk prescribers,
including the criteria to make such determination, shall be made by the
department. Providers determined to be high-risk prescribers pursuant to
this subdivision (c)(1) shall be subject to selected chart review and investi-
gation by the department.

(2) If a prescriber is identified as a high-risk prescriber pursuant to
subdivision (c)(1), the department shall submit the high-risk prescriber’s
information to the board that issued the prescriber’s license for appropriate
action.

(3) Upon receiving information pursuant to subdivision (c)(2), the licens-
ing board shall notify the prescriber and, if applicable, the prescriber’s
collaborating physician or supervising physician, as appropriate, of the
prescriber’s identification as a high-risk prescriber and, as applicable,
require the prescriber to:

(A) Participate in continuing education that is designed to inform
providers about the risks, complications, and consequences of opioid
addiction. The specific continuing education courses and number of hours
to be completed by the prescriber shall be determined by the licensing
board;

(B) Make available, in the prescriber’s waiting room and clinic areas
where the prescriber’s patient can view, educational literature that warns
persons of risks, complications, and consequences of opioid addiction. The
specific literature to be made available pursuant to this subdivision
(c)(2)(B) shall be determined by the department and made available on the
department’s website;

(C) Obtain written consent on a form that explains the risks of,
complications of, medical and physical alternatives to, and consequences
of opioid therapy and addiction to any patient who will receive opioid
therapy for more than three (3) weeks with daily dosages of sixty (60)
morphine milligram equivalents (MME) or higher. The consent shall
include a certification from the patient that the patient understands the
information. In order to continue to treat the patient, the provider must
assure that the consent is signed by the patient and made part of the
patient’s health record; and

(D) Renew the consent described in subdivision (c)(3)(C) at four-week
intervals for patients who continue to receive opioid therapy. In order to
continue to treat the patient, the provider must assure that the consent is
signed by the patient and made part of the patient’s health record.

(4) An identified high-risk prescriber must comply with the requirements
set out in subdivision (c)(3) for a period of one (1) year from the time the
provider was notified of the provider’s identification as a high-risk prescriber
of opioids. Failure of a prescriber to comply with the requirements set out in
subdivision (c)(3) shall be treated as an act constituting unprofessional
conduct for which disciplinary action may be instituted under the authority
of the board that issued the prescriber’s license.

(5) All costs associated with this subsection (c) shall be paid by the
identified provider.

(6) If the provider disputes the identification of the provider as a high-risk
prescriber of opioids, the provider may request the department conduct an
internal review of the identification, which shall be done by the commis-
sioner or the commissioner’s designee. Any such internal review is not
subject to the provisions of title 4, chapter 5, part 3.

(d) All data, reports and correspondence under this section shall be confidential and shall not be considered to be a public record for purposes of title 10, chapter 7.

(e) All correspondence and reports can be used by the department’s office of investigations and/or the respective entity responsible for licensure to develop a disciplinary case against the prescriber and, where appropriate, the collaborating physician or supervising physician, as appropriate, of an advanced practice registered nurse or physician assistant.

(f) The failure of a prescriber or, where appropriate, a collaborating physician or supervising physician, as appropriate, to respond to the department’s request for information in a timely fashion may be a cause for disciplinary action by the prescriber’s, or where appropriate the collaborating physician’s or supervising physician’s licensing board, as appropriate and may include a penalty of up to one thousand dollars ($1,000) per day for failure to respond or failure to respond in a timely manner.

(g) All correspondence shall be maintained for five (5) years and kept organized by prescriber so that information on a prescriber who appears on multiple lists compiled pursuant to subsection (a) may be aggregated.

68-1-135. Performance of health maintenance tasks by paid personal aide. [Effective January 1, 2018.]

(a) For purposes of this section:

(1) “Caregiver” means a person who is:

(A) Directly and personally involved in providing care for a minor child or incompetent adult; and

(B) The parent, foster parent, family member, friend, or legal guardian of such minor child or incompetent adult;

(2) “Competent adult” means a person eighteen (18) years of age or older who has the capability and capacity to evaluate knowledgeable the options available and the risks attendant upon each and to make an informed decision, acting in accordance with the person’s own preferences and values. A person is presumed competent unless a determination to the contrary is made;

(3) “Health maintenance task” means a healthcare task that:

(A) A person without a functional disability or a caregiver would customarily and personally perform without the assistance of a licensed healthcare provider;

(B) The person is unable to perform for the person’s own self due to a functional or cognitive limitation;

(C) The licensed healthcare provider determines can be safely performed in the home for the person by a paid personal aide acting under the direction of a competent adult with a functional disability or caregiver;

(D) Enables the person to maintain independence, personal hygiene, and safety in the person’s own home; and

(E) Includes, but is not limited to, as determined by rule, administration of glucometer tests, administration of eye or ear drops, nebulizer treatment, and ostomy care, including skin care and changing appliance;

(4) “Home” means the dwelling in which the person resides, whether the person owns, leases, or rents such residence or whether the person resides in
a dwelling owned, leased, or rented by someone else;

(5) “Licensed healthcare provider” means the treating physician licensed under title 63, chapter 6 or 9, or a registered nurse; and

(6) “Paid personal aide” is any person providing paid home care services, such as personal care or homemaker services, that enable the person receiving care to remain at home whether a paid personal aide is employed by the person receiving care, a caregiver, or by a contracted provider agency that has been authorized to provide home care services to that person.

(b) Notwithstanding any law or rule to the contrary, a competent adult with a functional disability living in the adult’s own home or a caregiver acting on behalf of a minor child or incompetent adult living in the minor child’s or the incompetent adult’s own home may choose to direct and supervise a paid personal aide in the performance of a health maintenance task subject to the aide having been taught as required by subsection (d).

(c) A paid personal aide may perform health maintenance tasks required by an individual receiving long-term supports and services and be paid to provide those tasks while performing services constituting home and community based long-term care, as defined in § 71-2-103, or under a private pay arrangement. Self-direction of healthcare tasks by an individual receiving medicaid-reimbursed home and community based long-term care services shall be provided pursuant to the Long-Term Care Community Choices Act of 2008, compiled in title 71, chapter 5, part 14.

(d) If a licensed healthcare provider, after completing an assessment of an individual’s healthcare needs, determines health maintenance tasks can be performed by paid personal aides, the licensed healthcare provider shall evaluate the ability of the paid personal aide to perform the health maintenance task, teach the health maintenance task to the paid personal aide, ensure supervision of the paid personal aide, and re-evaluate the health maintenance task performed by the paid personal aide at regular intervals. The requirements for documentation of the training required by this subsection (d) are to be determined by rule.

(e) A licensed healthcare provider acting with ordinary and reasonable care under the circumstances and within the protocols of the provider’s authority who has ordered treatment to be provided by a paid personal aide, shall not be individually liable for the negligence or intentional acts of such paid personal aide when such negligence or intentional acts are outside the scope of the health maintenance tasks to be performed.

68-1-136. Needle and hypodermic syringe exchange program.

(a) If approved by the department of health, any nongovernmental organization, including an organization that promotes scientifically proven ways of mitigating health risks associated with drug use and other high-risk behaviors, may establish and operate a needle and hypodermic syringe exchange program. The objectives of the program shall be to do all of the following:

(1) Reduce the spread of human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), viral hepatitis, and other bloodborne diseases in this state;

(2) Reduce needle stick injuries to law enforcement officers and other emergency personnel; and

(3) Encourage individuals who inject drugs to enroll in evidence-based
(b) Programs established pursuant to this section shall offer all of the following:

1. Disposal of used needles and hypodermic syringes;
2. Needles, hypodermic syringes, and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused. A program shall strive for one-to-one syringe exchanges. No public funds may be used to purchase needles, hypodermic syringes, or other injection supplies;
3. Reasonable and adequate security of program sites, equipment, and personnel. Written plans for security shall be provided to the law enforcement offices with jurisdiction in the program location and shall be updated annually;
4. Educational materials on all of the following:
   A. Overdose prevention;
   B. The prevention of HIV, AIDS, and viral hepatitis transmission;
   C. Drug abuse prevention;
   D. Treatment for mental illness, including treatment referrals; and
   E. Treatment for substance abuse, including referrals for medication assisted treatment;
5. Access to naloxone for the treatment of a drug overdose, or referrals to programs that provide access to naloxone for the treatment of a drug overdose; and
6. Personal consultations from a program employee or volunteer concerning mental health or addiction treatment as appropriate for each individual requesting services.

(c)(1) It is an exception to the application of title 39, chapter 17, part 4, if an employee, volunteer, or participant of a program established pursuant to this section possesses any of the following:

   A. Needles, hypodermic syringes, or other injection supplies obtained from or returned to a program established pursuant to this section; or
   B. Residual amounts of a controlled substance contained in a used needle, used hypodermic syringe, or used injection supplies obtained from or returned to a program established pursuant to this section.

(2)(A) The exception provided in this subsection (c) shall apply only if the person claiming the exception provides written verification that a needle, syringe, or other injection supplies were obtained from a needle and hypodermic syringe exchange program established pursuant to this section. For a participant in the program, this exception shall only apply to possession when the participant is engaged in the exchange or in transit to or from the exchange.

   B. In addition to any other applicable immunity or limitation on civil liability, a law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section shall not be subject to civil liability for the arrest or filing of charges.

   (3) In addition to any other applicable immunity or limitation on civil liability, a nongovernmental organization and an employee or volunteer of that organization are not subject to civil liability for establishing, operating, or participating in a program established pursuant to this section in the absence of gross negligence or willful, intentional, or malicious conduct.

(d) Prior to commencing operations of a program established pursuant to
this section and obtaining approval from the department of health as required by subsection (a), the nongovernmental organization shall report to the department of health all of the following information:

1. The legal name of the organization or agency operating the program;
2. The areas and populations to be served by the program; and
3. The methods by which the program will meet the requirements of subsection (b).

(e) Not later than one (1) year after commencing operations of a program established pursuant to this section, and every twelve (12) months thereafter, each organization operating such a program shall report the following information to the department of health:

1. The number of individuals served by the program;
2. The number of needles, hypodermic syringes, and needle injection supplies dispensed by the program and returned to the program;
3. The number of naloxone kits distributed by the program; and
4. The number and type of treatment referrals provided to individuals served by the program, including a separate report of the number of individuals referred to programs that provide access to naloxone that is approved by the federal food and drug administration for the treatment of a drug overdose.

(f) The department of health shall annually compile a report containing the information submitted to the department pursuant to subsection (e) and submit the report to the members of the general assembly.

(g) A program established pursuant to this section shall not conduct an exchange within two thousand feet (2,000') of any school or public park.

(h) The commissioner of health is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

68-1-805. Report regarding births involving neonatal abstinence syndrome and opioid use by women of childbearing age.

On or before January 15, 2018, the commissioner of health, in consultation with the perinatal advisory committee and with the assistance of relevant state agencies, shall report to the health committee of the house of representatives and the health and welfare committee of the senate concerning the following aspects of births involving neonatal abstinence syndrome and opioid use by women of childbearing age for the last two (2) available fiscal years or calendar years, as may be available:

1. From data available to the bureau of TennCare, the number of births involving neonatal abstinence syndrome to enrollees in the TennCare program, the lengths of stay in a hospital for infants born with neonatal abstinence syndrome to enrollees in the TennCare program, and the costs to the program of those births;
2. From information available to managed care organizations participating in the TennCare program, a description of any initiatives by the managed care organizations to address health outcomes, costs, and other issues raised by births involving neonatal abstinence syndrome and opioid use by women of childbearing age;
(3) From data available to the department of health, and district and county health departments, the number of women with a substance abuse diagnosis involving opioid use who received family planning services and the number of those women who received long acting reversible contraceptives;

(4) From data available to the department of children's services, the number of cases involving investigations that included an infant born with neonatal abstinence syndrome, the number of such infants in custody of the department, and the number of visits made by the department to families with an infant born with neonatal abstinence syndrome; and

(5) From data available to the bureau of TennCare and the department of health, the number of cases in which the source of opiates in the mother of an infant born with neonatal abstinence syndrome can be reasonably associated with a substance prescribed to the mother.

68-1-1803. Purpose.

The office of women's health is designated for the following purposes:

(1) To continue to educate and advocate for women's health by establishing appropriate forums, programs, and initiatives designed to educate the public regarding women's health issues with an emphasis on preventive health and healthy lifestyles;

(2) To assist the commissioner in identifying, coordinating, and establishing priorities for programs, services, and resources the state should provide for women's health issues and concerns relating to the reproductive, menopausal, and post-menopausal phases of a woman’s life with an emphasis on post-menopausal health;

(3) To serve as a clearinghouse and resource for information on women’s health by maintaining a current list of applicable resources and referring persons to the proper locations for obtaining such information. Information shall include, but not be limited to, the following:

(A) Diseases that significantly impact women, including heart disease, cancer, and osteoporosis;

(B) Menopause;

(C) Mental health;

(D) Substance abuse;

(E) Sexually transmitted diseases; and

(F) Sexual assault and domestic violence;

(4) To collect, classify, and analyze relevant research information and data conducted or compiled by the department or other entities in collaboration with the department, as well as to provide, except as prohibited by law, interested persons with information regarding research results;

(5) To develop and recommend funding and program activities for educating the public on women’s health initiatives, including, but not limited to, the following:

(A) Health needs throughout a woman's life;

(B) Diseases which significantly affect women, including heart disease, cancer, and osteoporosis;

(C) Access to health care for women;

(D) Poverty and women’s health;

(E) The leading causes of morbidity and mortality for women; and

(F) Special health concerns for minority women;
(6) To make recommendations to the commissioner regarding programs that address women’s health issues for inclusion in the department’s annual budget and strategic planning;

(7) To seek funding from various entities to carry out the purposes of this part;

(8) To conduct public educational forums in conjunction with other public health events and conferences in the state to raise public awareness and educate citizens about women’s health issues; and

(9) To coordinate the activities and programs of the office with other entities that focus on women’s health or women’s issues.


(a) The East Tennessee State University College of Public Health, in cooperation with the Tennessee stroke systems task force, shall maintain a statewide stroke database that compiles information and statistics on stroke care involving prevalence, mortality and performance metrics that align with the stroke consensus metrics developed and approved by the American Heart Association, centers for disease control and prevention and the joint commission. The College of Public Health shall make aggregate data available to the public health community via an annual report. The College of Public Health shall support this data platform based on nationally available stroke registry tools that are based on nationally recognized, evidence-based guidelines. To every extent possible, the College of Public Health shall coordinate with national voluntary health organizations involved in stroke quality improvement to avoid duplication and redundancy.

(b) Beginning in July 2017 and for each subsequent year, comprehensive stroke centers and primary stroke centers shall, and all other hospitals are encouraged to, report data quarterly consistent with nationally recognized stroke consensus measures on the treatment of individuals with confirmed stroke to the East Tennessee State University College of Public Health.

(c)(1) This section shall not be construed as a medical practice guideline and shall not be used to restrict the authority of a hospital to provide services for which it has received a license to provide such services under state law.

(2) This section shall not be construed to authorize any disclosure of information that would be prohibited pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), compiled in 42 U.S.C. § 1320d et seq.

(3) The College of Public Health shall not disclose any hospital-specific information reported to it.

68-1-2101. Statewide palliative care consumer and professional information and education program. [Effective until June 30, 2018.]

There is established a statewide palliative care consumer and professional information and education program, referred to in this part as the “program”.

68-1-2102. Purpose of program. [Effective until June 30, 2018.]

The purpose of the program is to maximize the effectiveness of palliative care initiatives in this state by ensuring that comprehensive and accurate
information and education about palliative care is available to the public, healthcare providers, and healthcare facilities.

**68-1-2103. Publication of information about palliative care and available resources on website.** [Effective until June 30, 2018.]

The state palliative care and quality of life task force shall publish information about palliative care and available resources relating to such care on its website, including links to external resources about palliative care for the public, healthcare providers, and healthcare facilities. The information and resources shall include, but not be limited to, the following:

1. Continuing educational opportunities for healthcare providers;
2. Information about palliative care delivery in the home, primary, secondary, and tertiary environments;
3. Best practices for palliative care delivery; and
4. Consumer educational materials and referral information for palliative care, including hospice.

**68-1-2104. Termination of information and education program.**

[Effective until June 30, 2018.]

The information and education program established by this part shall terminate on June 30, 2018.

**68-1-2501. Repealed.**

**68-1-2502. Repealed.**

**68-1-2503. Repealed.**

**68-3-502. Death registration.**

(a)(1) A death certificate for each death that occurs in this state shall be filed with the office of vital records or as otherwise directed by the state registrar within five (5) days after death and prior to final disposition, or as prescribed by regulations of the department. It shall be registered, if it has been completed and filed in accordance with this section.

(2) If the place of death is unknown but the body is found in this state, the death certificate shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by the date the body was found.

(3) When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or airspace or in a foreign country and the body is first removed from the conveyance in this state, the death shall be registered in this state; but the certificate shall show the actual place of death insofar as can be determined.

(b) The funeral director, or person acting as funeral director, who first assumes custody of the dead body shall file the death certificate. The funeral
director shall obtain the personal data from the next of kin or the best qualified
person or source available, and shall obtain the medical certification from the
person responsible for medical certification, as set forth in subsection (c).

(c)(1) The medical certification shall be completed, signed and returned to
the funeral director by the physician in charge of the patient’s care for the
illness or condition that resulted in death within forty-eight (48) hours after
death, except when inquiry is required by the county medical examiner. In
the absence of the physician, the certificate may be completed and signed by
another physician designated by the physician or by the chief medical officer
of the institution in which the death occurred. In cases of deaths that occur
outside of a medical institution and are either unattended by a physician or
not under hospice care, the county medical examiner shall investigate and
certify the death certificate when one (1) of the following conditions exists:

(A) There is no physician who had attended the deceased during the
four (4) months preceding death, except that any physician who had
attended the patient more than four (4) months preceding death may elect
to certify the death certificate if the physician can make a good faith
determination as to cause of death and if the county medical examiner has
not assumed jurisdiction; or

(B) The physician who had attended the deceased during the four (4)
months preceding death communicates, orally or in writing, to the county
medical examiner that, in the physician’s best medical judgment, the
patient’s death did not result from the illness or condition for which the
physician was attending the patient.

(2) Sudden infant death syndrome shall not be listed as the cause of death
of a child, unless the death meets the definition set forth in chapter 1, part
11 of this title.

(3)(A) In addition to this section, prior to signing medical certification of
the cause of death, the physician, chief medical officer or medical examiner
shall require screening x-rays of the skull, long bones and chest of any
child who was not subject to an autopsy and who died of unknown causes
or whose death is suspected to be from sudden infant death syndrome.

(B) The physician, chief medical officer or medical examiner who orders
the x-ray examinations pursuant to this section shall be entitled to a
reasonable fee as set by the commissioner of health for the costs of the
x-ray examinations, to be paid from the funds allotted to the postmortem
examiners program in the department of health.

(d) When inquiry is required, the medical examiner shall determine the
cause of death and shall complete and sign the medical certification within
forty-eight (48) hours after taking charge of the case. On or before January 1,
2013, the commissioner of health shall establish by rule a protocol for use by
medical examiners in cases involving death resulting from opiate, illegal or
illicit drug overdose, that requires an appropriate report under § 38-7-108.
The commissioner is authorized to promulgate such rules in accordance with
the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(e) If the cause of death cannot be determined within forty-eight (48) hours
after death, the medical certification shall be completed as provided by
regulation. The attending physician or medical examiner shall give the funeral
director, or person acting as funeral director, notice of the reason for the delay;
and final disposition of the body shall not be made until authorized by the
attending physician or medical examiner.

(f) If the death occurs in a military or veteran's hospital or in a state veteran's home in the state of Tennessee, the death certificate may be signed by the attending physician who holds a license in another state.

(g) In the event a person is dead on arrival at a military or veteran's hospital or at a state veteran's home in the state of Tennessee, the death certificate may be signed by a physician who is employed by one (1) of these institutions and who holds a license in another state.

(h) The form for a certificate of death shall contain a place for the recording of the deceased’s social security number and the social security number shall be recorded on the certificate and on any forms necessary to prepare the certificate.

(i)(1) When a county medical examiner suspects that suicide may be a potential manner of death, the medical examiner is encouraged to consult the decedent’s treating mental health professional, if known or applicable, prior to determination of manner of death.

(2)(A) If, after inquiry by the county medical examiner pursuant to title 38, chapter 7, part 1, the deceased’s next of kin disputes the manner of death determination on the death certificate, the next of kin may seek reconsideration of the manner of death determination.

(B) To seek reconsideration, the next of kin must submit a written request for reconsideration to the county medical examiner who signed the death certificate, the chief medical examiner of the regional forensic center where the autopsy was performed, and the commissioner of health, stating the nature and reasons for the reconsideration. If the county medical examiner who signed the death certificate is no longer the county medical examiner, then the notice shall be sent to the current county medical examiner instead. The written request for reconsideration must be submitted within one (1) year of the date the death certificate is filed with the office of vital records and must be supported by a signed affidavit.

(3) Within thirty (30) days after receiving notice of the reconsideration request, the county medical examiner shall meet with the requesting next of kin. The meeting shall be either in person or via teleconference, at the discretion of the requesting next of kin. At the meeting, each party shall present the reasons supporting their position with respect to the manner of death, including any relevant documentation. The county medical examiner shall make a written determination on the reconsideration within thirty (30) days after the reconsideration meeting and shall notify the requesting next of kin, the chief medical examiner of the regional forensic center where the autopsy was performed, and the commissioner of health in writing. If the medical examiner who signed the medical certification is no longer in a position as county medical examiner, then the current county medical examiner shall participate in the reconsideration meeting and issue the written determination on the reconsideration instead.

(4) If, after reconsideration, the county medical examiner finds a change in the manner of death determination is warranted, the county medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the county medical examiner’s findings as to manner of death.

(5)(A) If, after reconsideration, the determination of manner of death is still disputed by the requesting next of kin, the requesting next of kin may
seek further review of the determination by petitioning the chief medical examiner of the regional forensic center in which the autopsy was performed, on a form prescribed by the department of health, to review the medical records, hospital records, death certificate, investigative reports, and any other documentary evidence deemed necessary of the deceased. The chief medical examiner of the regional forensic center shall respond to the requesting next of kin detailing the findings within thirty (30) days with a written report. The report shall state whether the chief medical examiner of the regional forensic center agrees with the determination of manner of death on the death certificate, and, if the chief medical examiner of the regional forensic center disagrees with the determination of manner of death on the death certificate, the report shall detail those findings and the basis for the disagreement. The report shall be sent to the next of kin and the commissioner of health.

(B) If the chief medical examiner of the regional forensic center finds a change in the manner of death determination is warranted, the chief medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the chief medical examiner’s findings as to manner of death.

(6)(A) If, after review by the chief medical examiner of the regional forensic center, the determination of manner of death is unchanged, then the requesting next of kin may seek mediation with the chief medical examiner of the regional forensic center with a Rule 31 mediator under the Rules of the Supreme Court of Tennessee, at the sole expense of the requesting next of kin.

(B) If the chief medical examiner of the regional forensic center finds a change in the manner of death determination is warranted following mediation, the chief medical examiner shall file an affidavit within thirty (30) days directing the office of vital records to issue an amended death certificate to reflect the chief medical examiner’s findings as to manner of death.

(7) The department of health shall maintain a notice of decedents’ next of kin rights with regard to this subsection (i) on its public website.

(8) As used in this subsection (i), “next of kin” means the person who has the highest priority pursuant to § 62-5-703.

68-3-601. Short title.

This part shall be known and may be cited as the “Maternal Mortality Review and Prevention Act of 2016.”

68-3-602. Findings — Definitions.

(a) The general assembly finds that:

(1) Maternal deaths are a serious public health concern and have a tremendous family and societal impact;

(2) Maternal deaths are significantly underestimated and inadequately documented, preventing efforts to identify and reduce or eliminate the causes of death;

(3) No processes exist in this state for the confidential identification, investigation, or dissemination of findings regarding maternal deaths;
(4) The centers for disease control and prevention has determined that maternal deaths should be investigated through state-based maternal mortality reviews in order to institute the systemic changes needed to decrease maternal mortality; and

(5) There is a need to establish a program to review maternal deaths and to develop strategies for the prevention of maternal deaths in this state.

(b) As used in this part:

(1) “Department” means the department of health;

(2) “Maternal death” or “maternal mortality” means a:
   (A) Pregnancy-associated death;
   (B) Pregnancy-related death; or
   (C) Pregnancy-associated but not a pregnancy-related death;

(3) “Pregnancy-associated death” means the death of a woman while pregnant or within one (1) year of the end of her pregnancy, irrespective of the cause of death and regardless of the duration or site of the pregnancy;

(4) “Pregnancy-associated, but not pregnancy-related death” means the death of a woman while pregnant or within one (1) year following the end of pregnancy, due to a cause unrelated to the pregnancy; and

(5) “Pregnancy-related death” means the death of a woman while pregnant or within one (1) year of the end of her pregnancy, regardless of the duration or site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes.

68-3-603. Maternal mortality review program.

The commissioner of health is authorized to create the Tennessee maternal mortality review program. The intent of the Tennessee maternal mortality review program is to identify and address the factors contributing to poor pregnancy outcomes for women and facilitate state systems changes to improve the health of women before, during and after pregnancy.

68-3-604. Maternal mortality review and prevention team.

There is created the Tennessee maternal mortality review and prevention team, otherwise known as the state team. For administrative purposes only, the state team shall be attached to the department of health.

68-3-605. Composition of state team.

The composition of the state team shall include:

(1) The commissioner of health or the commissioner’s designee;

(2) The state maternal and child health director or the director’s designee;

(3) A physician licensed or certified under title 63, chapter 6 or 9, with training in obstetrics;

(4) A physician licensed or certified under title 63, chapter 6 or 9, with training in neonatology;

(5) A hospital-based nurse with experience in obstetrics, labor and delivery, postpartum, or maternity care;

(6) The chief medical examiner or the examiner’s designee;

(7) The chair of the health and welfare committee of the senate, or the chair’s designee;
(8) The chair of the health committee of the house of representatives, or
the chair’s designee; and
(9) Additional members as determined by the department, including
representatives from multiple disciplines and relevant community-based
organizations as necessary to fulfill the intent of this part.

68-3-606. Voting members — Vacancies.

All members of the state team shall be voting members. All vacancies shall
be filled by the appointing or designating authority in accordance with the
rules promulgated under § 68-3-612.

68-3-607. Duties of state team.

The state team shall:
(1) Review maternal deaths according to rules established under this
part;
(2) Make determinations regarding the preventability of maternal deaths;
(3) Report at least biennially to the governor and the general assembly
concerning the state team’s activities and its recommendations for changes
to any law, rule, and policy that would promote the safety and well-being of
women and prevention of maternal deaths; and
(4) Undertake annual statistical studies of the incidents and causes of
maternal mortality in this state and disseminate findings and recommen-
dations to policy makers, healthcare providers, healthcare facilities, and the
general public.

68-3-608. Inspection of records — Meetings — Confidentiality require-
ments.

(a)(1) The department and the state team are public health authorities
conducting public health activities pursuant to the federal Health Insurance
Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d, et seq.).
Notwithstanding §§ 63-2-101(b) and 68-11-1502, and any express or implied
contracts, agreements, or covenants of confidentiality based upon §§ 63-2-
101(b) and 68-11-1502, the records of all healthcare facilities and providers
shall be made available to the state team for inspection and copying as
necessary to complete the review of a specific fatality and effectuate the
intent of this part.
(2) The state team:
(A) Is authorized to inspect and copy any other records from any source
as necessary to complete the review of a specific fatality and effectuate the
intent of this part, including, but not limited to, hospital records, outpa-
tient clinic and laboratory records, police investigations data, medical
examiner investigative data, vital records cause of death information,
social services records, and records from state offices, agencies, and
departments; and
(B) May share information with other public health authorities or their
designees as the state team may determine necessary to achieve the goals
of the program.
(b) The state team may request that persons with direct knowledge of
circumstances surrounding a particular fatality provide the state team with
information necessary to complete the review of the particular fatality; such persons may include healthcare providers or staff involved in the care of the woman or the person who first responded to a report concerning the woman.

(c) Meetings of the state team shall not be subject to title 8, chapter 44, part 1. Any minutes or other information generated during official meetings of the state team shall be sealed from public inspection. However, the state team may periodically make available, in a general manner that shall not reveal confidential information about individual cases, the aggregate findings of team’s reviews and their recommendations for preventive actions.

(d)(1) All information and records acquired by the state team in the exercise of their duties shall be confidential and not subject to discovery or introduction into evidence in any proceedings; provided, however, certain information may be disclosed as necessary to carry out the purposes of the state team.

(2) A member of the state team or attendee of a team meeting shall not:
   (A) Release to the public or the news media information discussed at official meetings; or
   (B) Testify in any proceeding about details of the team meeting, including any information presented at the meeting, or about opinions formed by the person as a result of the meeting.

(3) This subsection (d) shall not prohibit a person from testifying in a civil or criminal action about matters that occurred in the team meeting; provided, that such testimony shall be based upon the person’s independent knowledge.

(e) Each member of the state team and any attendee of a meeting of the state team shall sign a statement indicating an understanding of and adherence to the state team’s confidentiality requirements, including potential civil or criminal consequences for a breach of confidentiality pursuant to this part.

68-3-609. Staff or consultants.

To the extent of funds available, the state team may hire staff or consultants to assist the state team in completing their duties.

68-3-610. Immunity.

A person or facility acting in good faith in compliance with this part shall be immune from civil and criminal liability arising from such action.

68-3-611. Maternal death investigations and reviews.

Nothing in this part shall preclude any maternal death investigations or reviews to the extent authorized by any other law.

68-3-612. Promulgation of rules.

The commissioner of health is authorized to promulgate such rules, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to carry out the intent of this part. The rules authorized pursuant to this section may address, but not be limited to, the following:

(1) The procedures by which healthcare providers, healthcare facilities, and other parties identify and report maternal deaths to the department or as directed by the department;
(2) The protocols, procedures, methods, manner, and extent of all investigations and reviews; and
(3) The manner in and extent to which information shall be disseminated in accordance with the intent of this part.

68-10-104. Officers to examine suspected persons and require treatment — Sources of infection to be investigated.

(a)(1) State, district, county and municipal health officers or their authorized deputies, within their respective jurisdictions, are directed and empowered, when, in their judgment, it is necessary to protect the public health, to make an examination of a person reasonably suspected because of known clinical or epidemiological evidence of being infected with a STD of a communicable nature, and to require such person when found infected to report for treatment to a reputable physician or clinic, and continue treatment until discharged by the physician or clinic as noninfectious, or in a stage of the disease in which an infectious relapse will not occur, or to submit to treatment provided at public expense until discharged as noninfectious, or in a stage of the disease in which an infectious relapse will not occur; and also, when in the judgment of the state, municipal or county health officer, it is necessary to protect the public health, to isolate and quarantine the person infected with a STD; provided, that any person so suspected may have present at the time of examination a physician of the person's own choosing to participate in the examination.

(2) Loitering about or residing in a house of assignation or prostitution or any other place where lewdness is practiced shall be construed as sufficient to suspect a person of being infected with a STD.

(b) It is the duty of all health officers to investigate sources of infection of STDs and to cooperate with the proper officers whose duty it is to enforce laws directed against prostitution, lewdness and assignation and the spread of STDs.

(c) The following healthcare officers and providers licensed in this state may examine, diagnose, and treat minors infected with STDs without the knowledge or consent of the parents of the minors, and shall incur no civil or criminal liability in connection with the examination, diagnosis, or treatment, except for negligence:

(1) Any state, district, county, or municipal health officer; or
(2) Any physician, nurse practitioner with a certificate of fitness and an appropriate supervising physician, nurse midwife who is an advanced practice registered nurse under § 63-7-126 and who has an appropriate supervising physician, or physician assistant with an appropriate supervising physician.

68-10-116. Exposure of officers, emergency personnel or employees of Tennessee bureau of investigation's crime laboratories to hepatitis or HIV virus — Testing of blood or body fluids.

(a)(1) If, during the course of arresting, transporting, or processing a person charged with the commission of a criminal offense, a law enforcement officer is exposed to the blood or other body fluid of the arrested person in any manner that presents a significant risk of transmission of the hepatitis virus or the HIV/AIDS virus, then the exposed officer may request that the arrested person's blood be tested for the presence of the hepatitis virus and
the HIV/AIDS virus, and such test shall be administered if requested.

(2) If, during the course of receiving, analyzing, or transporting the blood or other body fluid of any person who has been arrested and charged with a criminal offense, an employee of any of the Tennessee bureau of investigation’s crime laboratories is exposed to the blood or body fluid in any manner that presents a significant risk of transmission of the hepatitis virus or the HIV/AIDS virus, then the exposed employee may request that the arrested person’s blood be tested for the presence of the hepatitis virus and the HIV/AIDS virus, and such test shall be administered if requested.

(3) If, while acting in the scope of duty, a firefighter, emergency medical technician-paramedic, or emergency medical technician is exposed to the blood or other body fluid of an arrested person in any manner that presents a significant risk of transmission of the hepatitis virus or the HIV/AIDS virus, then the exposed individual may request that the arrested person’s blood be tested for the presence of the hepatitis virus and the HIV/AIDS virus, and such test shall be administered if requested.

(b) Testing shall occur at a licensed health care facility, with the cost to be paid by the state, county, or municipal subdivision that employs the law enforcement officer, firefighter, emergency medical technician-paramedic, emergency medical technician, or employee of the crime laboratory of the Tennessee bureau of investigation. Any person who, acting at the written request of a law enforcement officer, firefighter, emergency medical technician-paramedic, emergency medical technician, or employee of the crime laboratory of the Tennessee bureau of investigation, withdraws blood from a person for the purpose of making the test, shall not incur any civil or criminal liability as a result of the withdrawing of the blood, except for any damages that may result from the negligence of the person withdrawing the blood. Neither shall the hospital or licensed health care facility incur, except for negligence, any civil or criminal liability as a result of the act of withdrawing blood from any person. The results of the testing shall be confidential; provided, that the law enforcement officer, firefighter, emergency medical technician-paramedic, emergency medical technician, or employee of the crime laboratory of the Tennessee bureau of investigation, exposed to the blood or other body fluid shall have the right to request the results of the testing and the person providing the test results shall be immune from liability in the same manner as is provided in § 68-10-115.

(c) As used in this section, “law enforcement officer” includes an employee of any of the Tennessee bureau of investigation’s crime laboratories, firefighter, emergency medical technician-paramedic, or emergency medical technician; provided, however, that nothing in this section shall grant any law enforcement authority to a person who does not otherwise have the authority.

68-11-201. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Adult care home” means a single family residence licensed pursuant to this part in which twenty-four-hour residential care, including assistance with activities of daily living, is provided in a homelike environment to no more than five (5) adults who are elderly or have a disability. Adult care homes shall be licensed as Level 2 homes, and meet standards prescribed in this part and in regulations promulgated by the board pursuant to this part. “Adult care home” does not include any facility otherwise licensed by the
department of mental health and substance abuse services;

(2) “Adult care home provider” means a person twenty-one (21) years of age or older who owns and operates an adult care home and meets all education, training and experience requirements prescribed in this part and in regulations promulgated by the board pursuant to § 68-11-209. An adult care home provider may serve up to five (5) adults who are elderly or have a disability and who are unrelated to the adult care home provider by blood or marriage. An adult care home provider may choose to serve one (1) or more adult members of their own family if those adult members are elderly or have a disability, in which case, the adult care home provider shall be required to serve at least two (2) additional adults who are elderly or have a disability if those additional adults are unrelated to the adult care home provider by blood or marriage, for a total of no more than five (5) residents in the adult care home who are elderly or have a disability. An adult care home provider shall live in the adult care home or employ a resident manager to live in the residence;

(3) “Ambulatory surgical treatment center” means any institution, place, or building devoted primarily to the maintenance and operation of a facility for the performance of surgical procedures or any facility in which a surgical procedure is utilized to terminate a pregnancy. Such facilities shall not provide beds or other accommodations for the stay of a patient to exceed twelve (12) hours duration; provided, that the length of stay may be extended for an additional twelve (12) hours in the event such stay is deemed necessary by the attending physician, the facility medical director, or the anesthesiologist for observation or recovery, but in no event shall the length of stay exceed twenty-four (24) hours. No patient for whom a surgical procedure is utilized to terminate a pregnancy shall stay at such a facility for a period exceeding twelve (12) hours. Individual patients shall be discharged in an ambulatory condition without danger to the continued well-being of the patients or shall be transferred to a hospital. Excluded from this definition are private physicians’ office practices where a total of fifty (50) or fewer surgical abortions are performed in any calendar year;

(4) The purpose of assisted-care living facility services is to promote the availability of residential alternatives to institutional care for persons who are elderly or who have disabilities in the least restrictive and most homelike environment appropriate. Assisted-care living facility services shall be driven by a philosophy that emphasizes personal dignity, respect, autonomy, independence and privacy and should, to the maximum extent appropriate, enhance the person’s ability to age in place, while also ensuring that the person’s medical and other needs are safely and effectively met;

(A) “Assisted-care living facility” means a facility, building, establishment, complex or distinct part thereof that accepts primarily aged persons for domiciliary care and services as described in this section;

(B) An assisted-care living facility shall provide on site to its residents room and board and non-medical living assistance services appropriate to each resident’s needs, such as assistance with bathing, dressing, grooming, preparation of meals and other activities of daily living;

(C) Subject to limitations specified in this subdivision (4), an assisted-care living facility may also provide on site to its residents administration of medications that are typically self-administered, excluding intravenous injections, except as permitted pursuant to subdivisions (5)(D) and (E),
and all other medical services as prescribed by each resident’s treating physician that could be provided to a private citizen in the person’s own home by an appropriately licensed or qualified health care professional or entity, such as part-time or intermittent nursing care, various therapies including physical, occupational and speech therapy, podiatry care, medical social services, medical supplies other than drugs and biologicals, durable medical equipment and hospice services;

(i) Such medical services that may be provided in the assisted-care living facility must be provided by appropriately licensed or qualified staff or contractors of the assisted-care living facility, a licensed home care organization, another appropriately licensed entity or by the appropriately licensed staff of a nursing home, acting within the scope of their respective licenses;

(ii) Nothing in this subdivision (4) shall authorize assisted-care living facilities to provide medical services to assisted-care living facility residents if the services are reimbursable under the federal medicare program;

(iii) Oversight of medical services provided by licensed health care professionals and entities in an assisted-care living facility shall be provided in a manner that is consistent with the oversight of services provided by the licensed health care professionals or entities in private residential settings as defined through rules and regulation promulgated by the applicable licensing board and as may be further defined through rules and regulations promulgated by the board for licensing health care facilities pursuant to this section to ensure the quality of care received;

(iv) The assisted-care living facility shall be responsible for the development of a plan of care that ensures the safety and well-being of the resident’s living environment and for the provision of the resident’s health care needs. Furthermore, any licensed health care professional or entity that is delivering services to the resident in the assisted-care living facility shall be available to assist in the plan of care development and to assess, plan, monitor, direct and evaluate the resident’s care in conjunction with the resident’s physician and in cooperation with the assisted-care living facility;

(v) Assisted-care living facilities shall be subject to licensure and must meet such requirements and minimum standards as the board prescribes in regulations pursuant to § 68-11-209. In the regulations, the board shall specifically address the needs of residents who may receive medical services provided pursuant to this part, including documentation of physician orders and nursing and treatment records of all medical services provided in the assisted-care living facility in an appropriate medical record maintained by the facility, regardless of whether the services are rendered by appropriately licensed or qualified staff of the assisted-care living facility or by arrangement with an outside entity;

(vi) The board shall also, in consultation with the state fire marshal, include in such regulations fire safety standards that afford reasonable protection to assisted-care living facility residents without unduly disturbing the residential atmosphere to which they are accustomed;

(5) “Assisted-care living facility resident” means primarily an aged person who requires domiciliary care and who, upon admission to the facility, if not
ambulatory, is capable of self-transfer from the bed to a wheelchair or similar device and is capable of propelling the wheelchair or similar device independently. Such resident may require one (1) or more of the services described in subdivision (4);

(A) An assisted-care living facility resident shall be transferred to a licensed hospital, licensed nursing home or other appropriate setting if the resident, the appropriate person with legal authority to make such decisions on behalf of the resident, the assisted-care living facility administrator or the resident’s treating physician determine that the services available to the resident in the assisted-care living facility, including medical services provided pursuant to subdivision (4)(C), will not safely and effectively meet the resident’s needs. This subdivision (5)(A) shall not be interpreted as limiting the authority of the board or the department to require the transfer or discharge of individuals to different levels of care as required by statute when the resident’s needs cannot be safely and effectively met by care provided in the assisted-care living facility, including medical services provided pursuant to subdivision (4)(C);

(B) Subject to limitations specified in subdivisions (5)(C) and (D), an assisted-care living facility may admit and permit the continued stay of a person who meets medical eligibility, i.e., level of care requirements for nursing facility services as defined by the bureau of TennCare, so long as the person’s treating physician certifies that the person’s needs can be safely and effectively met by care provided in the assisted-care living facility, including medical services provided pursuant to subdivision (4)(C), and the assisted-care living facility can provide assurance of timely evacuation in a fire or emergency;

(C) Assisted-care living facilities shall not admit nor permit the continued stay of:

(i) A person requiring treatment for a stage III or IV decubitus ulcer or with exfoliative dermatitis;

(ii) A person who requires continuous nursing care. For purposes of this subdivision (5)(C)(ii), “continuous nursing care” means round-the-clock observation, assessment, monitoring, supervision or provision of nursing services that can only be performed by a licensed nurse;

(iii) A person who has an active, infectious and reportable disease in a communicable state that requires contact isolation;

(iv) A person whose verbal or physical aggressive behavior poses an imminent physical threat to the person or others, based not on the person’s diagnosis, but on the behavior of the person;

(v) A person requiring physical or chemical restraints, not including psychotropic medications prescribed for a manageable mental disorder or condition; or

(vi) A person whose needs cannot be safely and effectively met in the assisted-care living facility;

(D) Assisted-care living facilities shall not admit, but may permit the continued stay in the facility of, existing residents who require the treatments specified in subdivisions (5)(D)(i)-(iv) only on an intermittent basis or who are receiving hospice care from an appropriately licensed provider, as permitted pursuant to subdivision (5)(E). If the treatments are intermittent and extend beyond twenty-one (21) days, no more than two (2) additional twenty-one-day extensions may be granted by the
assisted-care living facility; provided, that the resident’s treating physician certifies that the person’s intermittent need for the treatment can be safely and effectively met by care provided in the assisted-care living facility, including medical services provided pursuant to subdivision (4)(C). Assisted-care living facilities shall not permit the continued stay in the facility of existing residents who require the treatments on an ongoing, rather than intermittent basis, unless a resident who requires the treatments on an ongoing basis does not qualify for nursing facility level of care, in which case a waiver may be granted by the board for licensing health care facilities allowing the person to remain in the assisted-care living facility. A person who requires any of the treatments specified in subdivisions (5)(D)(i)-(iv) and who is able to self-care for the person’s condition without the assistance of facility personnel or other appropriately licensed entity shall not be subject to these limitations and may be admitted or permitted to continue as a resident in an assisted-care living facility:

(i) Nasopharyngeal or tracheotomy aspiration;
(ii) Nasogastric feedings;
(iii) Gastrostomy feedings; or
(iv) Intravenous therapy or intravenous feedings;

(E) Notwithstanding any other provision of this subdivision (5), any assisted-care living facility resident, including residents and new admissions who have qualified for hospice care prior to admission to the assisted-care living facility, shall be able to receive hospice care services and continue as a resident of the assisted-care living facility as long as the resident’s treating physician certifies that hospice care can be appropriately provided at the facility. In addition, the hospice provider and the assisted-care living facility are jointly responsible for the development of a plan of care that ensures the safety and well-being of the resident’s living environment and for the provision of the resident’s health care needs. Furthermore, the hospice provider shall be available to assess, plan, monitor, direct and evaluate the resident’s palliative care in conjunction with the resident’s physician and in cooperation with the assisted-care living facility;

(F) The board for licensing health care facilities shall not promulgate any regulation, make any determination, issue any waiver, take any action or refuse to take action that has the effect of permitting an assisted-care living facility to provide care to persons or to admit or permit the continued stay of such persons except in accordance with this subdivision (5);

(6) “Assistive technology practitioner (ATP)” means service providers primarily involved in evaluating the consumer’s needs and training in the use of a prescribed wheeled mobility device;

(7) “Assistive technology supplier (ATS)” means service providers involved in the sale and service of commercially available wheeled mobility devices;

(8) “Birthing center” means any institution, facility, place or building devoted exclusively or primarily to the provision of routine delivery services and postpartum care for mothers and their newborn infants;

(9) “Board,” unless otherwise indicated, means the board for licensing health care facilities;
(10) “Commissioner” means the commissioner of health, the commissioner's authorized representative, or in the event of the commissioner’s absence or a vacancy in the office of commissioner, the deputy commissioner of health;

(11) [Deleted by 2013 amendment.]

(12) “Dentist” means a doctor of dental science who is duly licensed to practice dentistry in this state;

(13) “Department” means the department of health;

(14) “Evaluation” means the determination and documentation of the physiological and functional factors that impact the selection of an appropriate seating and wheeled mobility device;

(15) “Facility” means any institution, place or building providing health care services that is required to be licensed under this chapter;

(16) “HIV resident” means any individual who is in need of domiciliary care and who has been diagnosed and certified in writing by a licensed physician as being human immunodeficiency virus (HIV) positive;

(17)(A) “Home care organization” provides home health services, home medical equipment services, professional support services or hospice services to patients on an outpatient basis in either their regular or temporary place of residence. An entity is a home care organization if it does any of the following:

(i) Holds itself out to the public as providing home health services, home medical equipment services or hospice services;

(ii) Contracts or agrees to deliver home health services, home medical equipment services or hospice services;

(iii) Accepts, in the organization’s name, physician orders for home health services, home medical equipment services or hospice services;

(iv) Accepts responsibility for the delivery of home health services, home medical equipment services or hospice services;

(v) Contracts to provide professional support services with the state agency financially responsible for services to individuals with mental intellectual or developmental disabilities;

(B) The absence of one (1) or more of the factors in (17)(A)(i)-(v) does not necessarily exclude the entity from the meaning of this definition;

(C) If the entity is not included within the terms of this definition, the entity shall not be considered to be a home care organization solely because it offers to refer individuals who are available for employment by consumers through personal contract or individual agreement to deliver home health services, home medical equipment services, professional support services or hospice services that are either within the scope of the individual's professional license or is a homemaker service, and which service must be delivered independently of the agency or organization that made the referral;

(D) The board shall establish, by rules, standards of authorization for a home care organization to be qualified to provide home health services, home medical equipment services or hospice services. No person shall provide a designated category of services unless appropriately authorized by the board. Licensure surveys of a home care organization shall be specific to the type of service categories for which the home care organization has been authorized. The standards for hospice shall include requirements for a medically directed team of professionals and volun-
teers to create a program of care to meet the medical, nursing, social, psychological, emotional, spiritual and other special needs that are experienced in the final stages of illness, during dying and bereavement for families following the death of the patient. The standards for licensure of professional support services shall be the same as those applicable to personal support services agencies licensed under title 33; provided, that the department adopts by rule additional standards specifically for professional support services after consultation with the commissioner of mental health and substance abuse services. In regulating home care organizations authorized to provide professional support services, the department shall rely on the review of the organizations conducted by the department of mental health and substance abuse services, and the survey by the department of the organization shall not duplicate the reviews conducted by the department of mental health and substance abuse services;

(18)(A) “Home for the aged” means a home represented and held out to the general public as a home which accepts primarily aged persons for relatively permanent, domiciliary care. A home for the aged provides room, board and personal services to four (4) or more nonrelated persons;

(B) The residential home for the aged shall be subject to licensure and meet such requirements and minimum standards as the board shall prescribe in regulations pursuant to § 68-11-209. The board shall, after consultation with the state fire marshal, include in the regulations fire safety standards that afford reasonable protection to homes for the aged residents without unduly disturbing the residential atmosphere to which they are accustomed. No license to operate a residential home for the aged shall be issued if the home is not approved by the local zoning, building and fire safety authorities to provide residential custodial care. The board shall employ one (1) or more fire safety experts who shall be annually certified to be qualified in fire safety by the state fire marshal. Notwithstanding approval of a home by the local authorities, the board shall consider any recommendation of its staff member or members thus certified to be qualified in deciding whether an application for a license to operate a residential home for the aged ought to be granted. In the absence of local authority and when deemed necessary by the board, approval of the home by the board’s certified fire safety expert is required. The board has sole authority to issue and revoke licenses for homes for the aged. The board has the authority to establish fees. The board has the authority to determine whether or not any institution or agency comes within the scope of this part, and its decisions in that regard shall be subject only to such rights of review as the courts exercise with respect to administrative actions;

(C) A residential home for the aged is authorized to administer medications to residents only if it employs or contracts with a physician, nurse, or physician assistant to administer medications to residents;

(19) “Home for the aged resident” means a person who is ambulatory and who requires permanent, domiciliary care but will be transferred to a licensed hospital, a licensed assisted living facility, or a licensed nursing home when health care services are needed that must be provided in those other facilities;
(20) “Home health service" means a service provided an outpatient by an appropriately licensed health care professional or an appropriately qualified staff member of a licensed home care organization in accordance with orders recorded by a physician, that includes one (1) or more of the following:

(A) Skilled nursing care, including part-time or intermittent supervision;

(B) Physical, occupational or speech therapy;

(C) Medical social services;

(D) Home health aide services;

(E) Medical supplies and medical appliances, other than drugs and pharmaceuticals, when provided or administered as part of, or through the provision of, the services described in subdivisions (17)(A)-(D);

(F) Any of the items and services listed in subdivisions (20)(A)-(E) that are provided on an outpatient basis under arrangements made by the home care organization at a hospital, nursing home facility or rehabilitation center and the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the individual's home, or that are furnished at such facility while the individual is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service;

(G)(i) For the purpose of defining “home health service” only, “physician” also includes a person who is licensed to practice medicine or osteopathy in a state contiguous to Tennessee, to the extent the physician has referred a patient residing in this state to a home care organization licensed under this part; provided, that nothing in this subdivision (20)(G) shall be construed as authorizing a non-resident physician or osteopath to practice in violation of § 63-6-201 or § 63-9-104, respectively. A physician who is not licensed to practice medicine or osteopathy in this state shall not refer a patient who is a resident of this state to a home care organization licensed under this part, unless the physician has previously provided treatment to the patient and has had an ongoing physician-patient relationship with the person for whom the referral is made;

(ii) For the purposes of defining “home health service” only, “physician” includes a podiatrist licensed under title 63, chapter 3; provided, however, that any home health service ordered is a follow-up to treatment provided to the patient by the podiatrist;

(H) Notwithstanding any other law to the contrary, a licensed practical nurse employed by a home care organization, acting pursuant to the written order of a licensed physician, may provide respiratory care to a home care organization patient, except for the maintenance and management of life support equipment;

(I) Home- and community-based services provided to individuals through the department of education or a local education agency (LEA) and home- and community-based services provided to individuals by a county health department are not home health services for purposes of this chapter; and

(J) “Home health service” does not include services provided in the home by a sole practice therapist, when such services are within the scope of the therapist’s license and incidental to services provided by the sole
practice therapist in the office. For purposes of this subdivision (20)(J), a sole practice therapist means a therapist licensed under title 63, chapter 13 or 17, who is in sole practice and not in a business arrangement with any other therapist or other healthcare provider. Nothing in this subdivision (20)(J) shall exclude a sole therapist from the requirement of this section relative to professional support services;

(21)(A) “Home medical equipment” means medical equipment intended for use by the consumer, including, but not limited to, the following:

(i) A device, instrument, apparatus, machine, or other similar article whose label bears the statement: “Caution: Federal law requires dispensing by or on the order of a physician.”;
(ii) Ambulating assistance equipment;
(iii) Mobility equipment;
(iv) Rehabilitation seating;
(v) Oxygen care equipment and oxygen delivery systems;
(vi) Respiratory care equipment and respiratory disease management devices;
(vii) Rehabilitation environmental control equipment;
(viii) Ventilators;
(ix) Apnea monitors;
(x) Diagnostic equipment;
(xi) Feeding pumps;
(xii) A bed prescribed by a physician to treat or alleviate a medical condition;
(xiii) Transcutaneous electrical nerve stimulator;
(xiv) Sequential compression devices; and
(xv) Neonatal home phototherapy devices;

(B) “Home medical equipment” does not include:

(i) Medical equipment used or dispensed in the normal course of treating patients by hospitals and nursing facilities as defined in this part, other than medical equipment delivered or dispensed by a separate unit or subsidiary corporation of a hospital or nursing facility or agency that is in the business of delivering home medical equipment to an individual’s residence;
(ii) Upper and lower extremity prosthetics and related orthotics;
(iii) Canes, crutches, walkers, and bathtub grab bars;
(iv) Medical equipment provided through a physician’s office incident to a physician’s service;
(v) Equipment provided by a pharmacist which is used to administer drugs or medicine that can be dispensed only by a pharmacist; or
(vi) Enteral and parenteral equipment provided by a pharmacist;

(22) “Home medical equipment provider” means any person who provides home medical equipment services;

(23) “Home medical equipment services” means a service provided by any person who sells or rents home medical equipment for delivery to the consumer’s place of residence in this state, regardless of the location of the home medical equipment provider. For purposes of this subdivision (23), “delivery to the consumer’s place of residence” includes shipment by the home medical equipment provider to the consumer’s residence or shipment to a predetermined location with the understanding that the home medical equipment shall be picked up by the consumer or the consumer’s
representative;

(24) “Hospice patient” means only a person who has:
(A) Been diagnosed as terminally ill;
(B) Been certified by a physician, in writing, to have an anticipated life expectancy of six (6) months or less; and
(C) Voluntarily requested admission to, and been accepted by a licensed hospice;

(25) “Hospice services” means a coordinated program of care, under the direction of an identifiable hospice administrator, providing palliative and supportive medical and other services to hospice patients and their families in the patient’s regular or temporary place of residence. Hospice services shall be available twenty-four (24) hours a day, seven (7) days a week pursuant to the patient’s hospice plan of care. Notwithstanding any other law, a licensed hospice may provide services to a person who is not a hospice patient; provided, that services to a non-hospice patient shall be limited to palliative care only. Hospice services may be provided in an area designated by a hospital for exclusive use by a home care organization certified as a hospice provider to provide care at the hospice inpatient or respite level of care in accordance with the hospice’s medicare certification. Admission to the hospital is not required in order for a patient to receive hospice services, regardless of the patient’s length of stay. The designation by a hospital of a portion of its facility for exclusive use by a home care organization to provide hospice services to its patients shall not:
(A) Alter the license to bed complement of such hospital; or
(B) Result in the establishment of a residential hospice;

(26)(A) “Hospital” means any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician or dentist, of one (1) or more nonrelated persons who may be suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appropriate for care, diagnosis or treatment;
(B) “Hospital” does not include any hospital or institution, operated by the department of mental health and substance abuse services or the department of intellectual and developmental disabilities, specially intended for use in the diagnosis, care and treatment of those suffering from mental illness, intellectual disabilities, convulsive disorders, or other abnormal mental conditions;
(C) All hospitals, including such hospitals as are strictly maternity hospitals, shall come within this part;
(D) The board has the authority to determine whether or not any institution or agency comes within the scope of this part, and its decisions in that regard shall be subject only to such rights of review as the courts exercise with respect to administrative actions;
(E) It is unlawful for any institution, place, building or agency to be called a hospital if it is not a hospital as defined in this section;

(27) “Hospitalization” in a hospital means the reception and care of any person for a continuous period longer than twenty-four (24) hours, for the purpose of giving advice, diagnosis, nursing service or treatment bearing on the physical health of such persons, and maternity care involving labor and delivery for any period of time;
(28) “Independent living facility” means a single-family residence, building, establishment, or complex used as a boarding home; an active adult community; a 55+ community; senior apartments; a retirement community; or a retirement home that provides housing for adults who are fifty-five (55) years of age or older. An independent living facility may provide meals, housekeeping services, and social activities for the entertainment of its residents, but does not provide any nursing or medical care, including medication administration or assistance with medication administration, and each resident is able to live independently, though a resident may independently contract for medical or nursing care with a home health agency or similar service;

(29)(A) “Nursing home” means any institution, place, building or agency represented and held out to the general public for the express or implied purpose of providing care for one (1) or more nonrelated persons who are not acutely ill, but who do require skilled nursing care and related medical services;

(B) “Nursing home” shall be restricted to facilities providing skilled nursing care and related medical services to individuals, beyond the basic provision of food, shelter and laundry, admitted because of illness, disease or physical infirmity for a period of not less than twenty-four (24) hours per day;

(30) “Oral surgeon” means a dentist who has been certified by the Tennessee board of dentistry to perform oral surgery;

(31)(A) “Outpatient diagnostic center,” except as otherwise limited in this subdivision (31), means any facility providing outpatient diagnostic services, unless the outpatient diagnostic services are provided as the services of another licensed healthcare institution that reports such outpatient diagnostic services on its joint annual report, or the facility is otherwise excluded from this subdivision (31). As used in this subdivision (31), “outpatient diagnostic services” means the following services provided to any person who is not an inpatient of a hospital: computerized tomography, magnetic resonance imaging, positron emission tomography, or other imaging technology developed after June 9, 2005, that provides substantially the same functionality as computerized tomography, magnetic resonance imaging, or positron emission tomography and for which a certificate of need is required by this chapter. With respect to an outpatient diagnostic center, data shall be reported to the commissioner of health pursuant to § 68-1-119, but the commissioner shall not make such data available to any third parties, except approved vendors that process the data, until the data is made publicly available;

(B) “Outpatient diagnostic center” does not mean a physician or dental practice that is conducted at a location occupied and controlled by one (1) or more physicians or dentists licensed under title 63, if the outpatient diagnostic services are ancillary to the specialties of the physicians’ practice or are provided primarily for persons who are patients of the physicians or dentists in the practice for purposes other than outpatient diagnostic services. Outpatient diagnostic services provided in settings other than outpatient diagnostic centers or ambulatory surgery treatment centers shall be reported to the department of health, in the same manner as if such services were provided in an outpatient diagnostic center;
(32) “Patient” includes, but is not limited to, any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care;

(33) “Person” means any individual, partnership, association, corporation, other business entity, state or local governmental agencies and entities, and federal agencies and entities to the extent permitted by federal law;

(34) “Physician” means a doctor of medicine or doctor of osteopathy who is duly licensed to practice the profession in the state of Tennessee;

(35) “Prescribed child care center” means a nonresidential child care, health care/child care center providing physician prescribed services and appropriate developmental services for six (6) or more children who are medically or technology dependent and require continuous nursing intervention. “Child care” for purposes of this section means the provision of supervision, protection, and meeting the basic needs of children, who are not related to the primary care givers, for three (3) or more hours a day, but less than twenty-four (24) hours a day;

(36) “Professional support services” means nursing and occupational, physical or speech therapy services provided to individuals with intellectual or developmental disabilities pursuant to a contract with the state agency financially responsible for such services;

(37) “Qualified rehabilitation professional” means:
   (A) A health care professional within the professional’s scope of practice licensed under title 63; or
   (B) An individual who has appropriately obtained the designation of ATP or ATS, meeting all requirements of the designation of ATP or ATS, as established by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA);

(38)(A) “Recuperation center” means an establishment with permanent facilities that include inpatient beds, with an organized medical staff, and with medical services, including physician services and continuous nursing services, to provide treatment for patients who are not in an acute phase of illness, but who currently require primarily convalescent or restorative services, usually post-acute hospital care of relatively short duration;
   (B) An establishment furnishing primarily domiciliary care is not within this definition;
   (C) Matters pertaining to recuperation centers shall come within the purview of the board;

(39) “Renal dialysis clinic” means any institution, facility, place or building devoted to the provision of renal dialysis on an outpatient basis to persons diagnosed with end stage renal disease;

(40) “Resident manager” means a person twenty-one (21) years of age or older who lives in an adult care home and oversees the day-to-day operation of the adult care home on behalf of the adult care home provider and meets all education, training and experience requirements prescribed in this part and in regulations promulgated by the board pursuant to § 68-11-209;

(41) “Residential HIV supportive living facility” means any institution, facility, place or building devoted exclusively to the provision of residential supportive living services to residents diagnosed with human immunodeficiency virus (HIV);
(42) “Residential hospice” means a licensed homelike residential facility designed, staffed and organized to provide hospice or HIV care services, or both, except the services shall be provided at the residential facility rather than the patient's regular or temporary place of residence. A residential hospice shall not provide hospice or HIV care services to any person other than a hospice patient defined in subdivision (24), or HIV resident defined in subdivision (16). The board shall establish, by rules and regulations, residential hospice standards, which shall include provisions for building construction and fire and safety features, in addition to standards otherwise applicable to hospice or HIV care services provided by home care organizations;

(43) “Substitute caregiver” means any person twenty-one (21) years of age or older who temporarily oversees care and services in an adult care home during the short-term absence of the adult care home provider or resident manager and meets all education, training and experience requirements prescribed in this part and in regulations promulgated by the board pursuant to § 68-11-209;

(44) “Traumatic brain injury residential home” means a facility owned and operated by a community-based traumatic brain injury (TBI) adult care home provider in which residential care, including assistance with activities of daily living, is provided in a homelike environment to disabled adults suffering from the effects of a traumatic brain injury as defined in § 68-55-101;

(45) “Traumatic brain injury residential home provider” means a person twenty-one (21) years of age or older who owns and operates a traumatic brain injury residential home. A traumatic brain injury residential home provider shall hold national certification by the Academy of Certified Brain Injury Specialists as a Certified Brain Injury Specialist (CBIS) or hold a current professional license as a physician, nurse practitioner, registered nurse, licensed rehabilitation professional, or licensed mental health professional who is trained and experienced in the care and rehabilitation of disabled adults suffering from the effects of a traumatic brain injury; and

(46) “Wheeled mobility device” means a wheelchair or wheelchair and seated positioning system prescribed by a physician and required for use by the patient for a period of six (6) months or more. The following medicare wheelchair base codes are exempt: K0001, K0002, K0003, K0004, K0006, and K0007, as long as the consumer weighs less than three hundred pounds (300 lbs.).

68-11-204. Requirement for license — Governmental institutions exempted.

(a)(1) No person, partnership, association, corporation or any state, county or local government unit, or any division, department, board or agency of the governmental unit, shall establish, conduct, operate or maintain in this state any hospital, recuperation center, nursing home, home for the aged, residential HIV supportive living facility, assisted-care living facilities, home care organization, residential hospice, birthing center, prescribed child care center, renal dialysis clinic, outpatient diagnostic center, ambulatory surgical treatment center, adult care homes or traumatic brain injury residential homes as defined in this part, without having a license.
(2) State or local government home care organizations may be excluded by
the board.
(3) An independent living facility is exempt from the licensure require-
ments of this part.
(b) Any health care facility or local health department operated by the
federal government shall be exempt from this part.
(c) The board, in its discretion, shall be authorized to issue licenses to
several licensees in such form as it may deem necessary to distinguish between
and identify any of the facilities required to be licensed by the department.
(d) Nothing in this part requires a person or entity providing hospice
residential services as of July 1, 1992, to obtain a certificate of need as a
residential hospice, if such person or entity, prior to July 1, 1992, had qualified
for reimbursement as a hospice under the federal medicare program.

(a)(1) Unless exempt under subdivision (c)(5), every facility licensed under
this part as an adult care home, ambulatory surgical treatment center,
assisted care living facility, home for the aged, hospice, hospital, nursing
home, residential hospice, or traumatic brain injury residential home shall
be inspected within fifteen (15) months following the date of the last
inspection. All other facilities for which a license has been issued shall be
inspected within three (3) years following the date of the last inspection. All
inspections shall be conducted by a duly appointed representative of the
department under the rules promulgated under this part.
(2) Inspection reports shall be prepared on forms prescribed by the
department.
(3) No institutions or agencies licensed pursuant to this part shall be
required to be inspected or licensed under the laws of this state relative to
hotels, restaurants, lodging houses, boardinghouses and places of
refreshment.
(4) Adult care homes are subject to the following inspection standards:
(A) The board shall inspect an adult care home prior to issuing an
initial license.
(B) The board shall conduct an unannounced inspection of an adult care
home in accordance with subdivision (a)(1).
(C) The board shall be permitted access to enter and inspect any adult
care home upon the receipt of an oral or written complaint, any time the
board has cause to believe that an adult care home is operating without a
license, or any time there exists a perceived threat to the health, safety or
welfare of any resident.
(5) Traumatic brain injury residential homes are subject to the following
inspection standards:
(A) The board shall inspect a traumatic brain injury residential home
prior to issuing an initial license;
(B) The board shall conduct an unannounced inspection of a traumatic
brain injury residential home in accordance with subdivision (a)(1); and
(C) The board shall be permitted access to enter and inspect any
traumatic brain injury residential home upon the receipt of an oral or
written complaint, any time the board has cause to believe that a
traumatic brain injury residential home is operating without a license, or
any time there exists a perceived threat to the health, safety or welfare of
Any resident.

(b)(1)(A) Each facility licensed pursuant to this title and performing more than fifty (50) surgical abortions in a year shall conduct a mandatory interim assessment of the facility’s compliance with quality measures as specified by the board, in addition to regular inspections conducted pursuant to this section.

(B) Such mandatory interim compliance assessment shall include contents prescribed by the board.

(C) The facility shall develop a plan of correction with appropriate time for correction of any deficiency discovered in connection with an interim assessment and shall submit the plan of correction to the department.

(D) The department is authorized to accept the plan or timeline for correction or to request changes in the plan of correction or the timeline for compliance.

(2)(A) Each facility licensed pursuant to this title and performing more than fifty (50) surgical abortions in a year shall report sentinel events.

(B) The board shall provide interpretive guidelines to facilities regarding the meaning of sentinel event.

(C) The department is authorized to require the facility to provide a plan of correction for preventing future occurrence of the reported sentinel event.

(3) In addition to reporting sentinel events, each facility in which a surgical abortion is performed shall make and maintain a record of the disposition of the aborted fetus or aborted fetal tissue as required in § 68-3-505(a) and shall produce such records at the time of an inspection of the facility and upon request from the department.

(4) Failure to comply with this subsection (b) shall be grounds for discipline by the board pursuant to this chapter.

(c)(1) The purpose of this subsection (c) is to require that state agencies, including the department of human services or the department of children’s services, the department of health, and those agencies with which each contracts, who perform surveys, inspections and investigations of health care facilities, do not duplicate their procedures or subject such health care facilities to duplicate rules and regulations.

(2) For the purposes of this subsection (c), unless the context otherwise requires:

(A) “Health care facility” includes hospital, recuperation center, nursing home, birthing center, prescribed child care center, home for the aged, residential HIV supportive living facility, assisted-care living facility, adult care home and traumatic brain injury residential home, as defined in this part; and

(B) “Inspection” means all surveys, inspections, investigations and other procedures necessary for a state agency, or a division or unit of a state agency, to perform in order to carry out various obligations imposed on such agency by applicable state and federal law and regulations.

(3)(A) State agencies shall make, or cause to be made, only such inspections necessary to carry out the various obligations imposed on such agencies by applicable state and federal law and regulations.

(B) Any on-site inspection by a state agency, division licensing board, or unit thereof, that substantially complies with the inspection requirements of any other state agency, other division licensing boards, or unit of the
inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection, instead of an on-site inspection by such agency, division licensing board, or unit of the inspecting agency.

(C) The governor shall be authorized to coordinate the inspections of health care facilities by state agencies required to conduct such inspections.

(D) Notwithstanding this section or any other law to the contrary, the department shall conduct such on-site inspections and investigations as may be necessary to safeguard and ensure, at all times, the public's health, safety and welfare.

(E) The department shall conduct such inspections and investigations as may be necessary to appropriately respond to complaints received from the public and to immediately act upon any determination by the board that the public's health, safety or welfare is, or appears to be, threatened.

(4) The department, under part 1 of this chapter, the board, under this part, the Tennessee state board of examiners for nursing home administrators, under title 63, chapter 16, and any hospital authority, under title 7, chapter 57, shall conduct one (1) joint inspection for each licensing period or shall accept the investigation of one (1) of such entities, under subdivision (c)(3), unless otherwise required by federal law or regulation.

(5)(A) All health care facilities licensed by the department that have obtained accreditation from a federally recognized accrediting health care organization shall be deemed to meet all applicable licensing requirements. Such facilities may be subject to an inspection by the department and shall continue to be subject to subdivisions (c)(3)(D) and (E) but may be exempt from subdivision (a)(1) so long as the facility remains accredited.

(B) In order to be issued a license by the department, such hospitals shall be required to annually remit the statutory licensing fees and a copy of a letter of current accreditation and accompanying report from the joint commission on accreditation of hospitals.

(C) The report shall be maintained as a confidential record pursuant to § 10-7-504.

(6) No licensure fee shall be reduced by this subsection (c).

(d) If a violation, citation, deficiency, or civil monetary penalty is found during the nursing home survey process, in which the violation is based upon an action or actions that are directly pursuant to a physician's order, the board of medical examiners' consultant, or the consultant's physician designee, shall be contacted for a consultation on the determination as to the medical necessity of the physician's order in question. The determination of medical necessity shall be based upon the recognized medical standards of practice and shall include, but not be limited to, a review of the physician's order, the date the order was given, the status of the patient at the time the actions occurred and the outcomes of the actions, the applicable state and federal regulations, and shall include contact between the consultant or designee and the treating physician or the facility's medical director. Any consultation between the consultant or designee and the treating physician or medical director must be completed within the time frames of the survey process. If it is determined that the violation is based upon or relates to a physician's order determined to be medically necessary, no violation, citation, deficiency, or civil monetary penalty shall be assessed against the facility and any deficiency cited in violation of
this subsection (d) will be removed. The department shall report back to the
board of medical examiners and the appropriate standing committees at the
end of six (6) months regarding the effectiveness and the resources necessary
to meet the requirements of this subsection (d).

(e) Any nursing home that files for federal bankruptcy protection shall
immediately inform the commissioner of health regarding its financial condi-
tion and the status of the legal proceedings. In overseeing a facility that has
filed for federal bankruptcy protection, the department of health shall follow
any existing policies or regulations pertaining to any special inspection or
oversight of such a facility. The fund established by § 68-11-827 may be used
for the purpose of protecting the residents of such a nursing home, if the
facility’s noncompliance with the conditions of continued licensure, applicable
state and federal statutes, rules, regulations and contractual standards
threatens the residents’ continuous care, the residents’ property, the nursing
home’s continued operation, or the nursing home’s continued participation in
the medical assistance program of title 71, chapter 5. The commissioner shall
inform the attorney general and reporter regarding the status of the legal
proceedings.

68-11-211. Reporting incidents of abuse, neglect and misappropriation
— Reporting specific incidents that might result in a
disruption in the delivery of health care services — Con-
fidentiality.

(a) As used in this section:
(1) “Abuse” means the willful infliction of injury, unreasonable confine-
ment, intimidation or punishment with resulting physical harm, pain or
mental anguish;
(2) “Board” means the board for licensing health care facilities;
(3) “Commissioner” means the commissioner of health;
(4) “Department” means the department of health;
(5) “Facility” means any facility licensed under this part and any physi-
cian’s office where Level III office-based surgery occurs;
(6) “Misappropriation of patient property” means the deliberate misplace-
ment, exploitation or wrongful, temporary or permanent use of a resident’s
belongings or money without the resident’s consent;
(7) “Neglect” means the failure to provide goods and services necessary to
avoid physical harm, mental anguish or mental illness; and
(8) “Patient” means a person receiving health care services from a facility,
and includes a resident at a nursing home facility.

(b) Except for those facilities required to report abuse, neglect or misappropri-
pation pursuant to 42 CFR 483.13, each facility shall report incidents of
abuse, neglect and misappropriation that occur at the facility to the depart-
ment within seven (7) business days from the facility’s identification of the
incident.

(c) An incident report or any amended incident report obtained by the
department pursuant to this section shall be confidential and not subject to
discovery, subpoena or legal compulsion for release to any person or entity, nor
shall the report be admissible in any civil or administrative proceeding, other
than a disciplinary proceeding by the department or the appropriate regula-
atory board. The report is not discoverable or admissible in any civil or
administrative action, except that information in the report may be transmitted to an appropriate regulatory board having jurisdiction for disciplinary or licensing sanctions against the impacted facility; however, the department must reveal, upon request, its awareness that a specific incident has been reported. The affected patient and the patient's family, as may be appropriate, shall also be notified of the incident by the facility. This subsection (c) and § 68-11-804(c)(23) shall not affect § 63-1-150 or the protections provided by § 63-1-150.

(d) Each facility shall also report specific incidents, including, but not limited to, the following that might result in a disruption in the delivery of health care services at the facility within seven (7) days after the facility becomes aware of the incident:

1. A strike by the staff at the facility;
2. An external disaster impacting the facility;
3. A disruption of any service vital to the continued safe operation of the facility or to the health and safety of its patients and personnel; and
4. Any fires at the facility that disrupt the provision of patient care services or cause harm to the patients or staff, or that are reported by the facility to any entity, including, but not limited to, a fire department charged with preventing fires.

(e) In the event that health care services are provided in the patient's home, then the facility shall only report those incidents that are witnessed or known by the person delivering health care services.

(f) The department shall have access to facility records that are allowed in part 3 of this chapter. The department may copy any portion of a facility medical record relating to the reported event, unless otherwise prohibited by rule or statute. This section and § 68-11-804(c)(23) do not change or affect the privilege and confidentiality provided by § 63-1-150.

(g) This section does not preclude the department from using information obtained under this section in a disciplinary action commenced against a facility or from taking disciplinary action against a facility. This section does not preclude the department from sharing such information with any appropriate governmental agency charged by federal or state law with regulatory oversight of the facility; however, all such information shall be confidential and not a public record. A facility's failure to report an incident of abuse, neglect or misappropriation may be grounds for disciplinary action against the facility pursuant to § 68-11-207.

(h) Nothing in this section shall be construed to eliminate or alter in any manner the required reporting of abuse, neglect or exploitation of children or adults or any other provisions of title 37, chapter 1, parts 4 and 6, and title 71, chapter 6, part 1.


(a)(1) The chief administrative official of each hospital or other health care facility shall report to the respective licensing board, committee, council, or agency any disciplinary action taken concerning any person licensed under title 63 or this title, when such action is related to professional ethics, professional incompetence or negligence, moral turpitude, or drug or alcohol abuse.

2. “Disciplinary action” shall include termination, suspension, reduction, or resignation of hospital privileges for any of the reasons listed in subdivi-
sion (a)(1).

(3) The report shall be in writing and made within sixty (60) days of the date of the action.

(b) The hospital or health care facility shall make available to the respective licensing board, committee, council, or agency, for examination, all records pertaining to the disciplinary action taken, notwithstanding § 63-1-150, § 63-6-228, or any other provision to the contrary.

(c) Any individual who, as a member of any committee, employee, or contractor of any hospital or health care facility, files a report pursuant to this section, shall be immune from liability to the extent provided in § 63-1-150.

68-11-239. Central service technician.

(a) As used in this section:

(1) “Central service department” means a department within a healthcare facility that processes, issues, and controls medical supplies, devices and equipment, both sterile and nonsterile, for patient care areas of a healthcare institution.

(2) “Central service technician” means a person who decontaminates, inspects, assembles, packages, and sterilizes reusable medical instruments or devices in a healthcare institution, whether such person is employed by the healthcare institution or provides services pursuant to a contract with the healthcare institution;

(3) “Healthcare institution” means an ambulatory surgical treatment center or a hospital, as those facilities are defined in § 68-11-201; and

(4) “Healthcare provider” means a person that provides healthcare services and is registered, certified, or licensed in accordance with title 63 and is under the division of health-related boards.

(b) Unless otherwise permitted pursuant to this section, no person shall practice as a central service technician unless the person:

(1)(A) Has successfully passed a nationally accredited central service exam for central service technicians and holds and maintains one (1) of the following credentials:

(i) A certified registered central service technician credential administered by the International Association of Healthcare Central Service Material Management; or

(ii) A certified sterile processing and distribution technician credential administered by the Certification Board for Sterile Processing and Distribution, Inc.; or

(B) Was employed or otherwise contracted for services as a central service technician in a healthcare institution before January 1, 2017; or

(2) Obtains a certified registered central service technician credential administered by the International Association of Healthcare Central Service Material Management or the Certification Board for Sterile Processing and Distribution, Inc., not later than two (2) years after the person’s date of hire or contracting for services with a healthcare institution.

(c) A person who qualifies to practice as a central service technician in a healthcare institution under subsection (b) shall complete a minimum of ten (10) hours of continuing education annually. The continuing education shall be in areas related to the functions of a central service technician.

(d) Nothing in this section shall prohibit the following persons from per-
forming the tasks or functions of a central service technician:

(1) A healthcare provider operating within the scope of practice for that provider established pursuant to title 63;

(2) A surgical technologist operating within the scope of practice established by § 68-57-105;

(3) A diagnostic medical sonographer while performing the duties of a sonographer;

(4) A student or intern performing the functions of a central service technician under the direct supervision of a person authorized under subdivision (d)(1) or (d)(2) as part of the student’s or intern’s training or internship; or

(5) A person who does not work in a central service department in a healthcare institution, but who has been specially trained and determined competent, based on standards set by a healthcare institution’s infection prevention or control committee, acting in consultation with a central service technician certified in accordance with subsection (b), to decontaminate or sterilize reusable medical equipment, instruments, or devices, in a manner that meets applicable manufacturer’s instructions and standards.

(e) A healthcare institution shall retain a list of persons determined to be competent under subdivision (d)(5). The list shall include job titles for such persons. A person determined to be competent pursuant to subdivision (d)(5) shall annually complete a minimum of ten (10) hours of continuing education in areas related to infection control and the decontamination and sterilization of reusable medical equipment, instruments and devices.

(f)(1) For any person practicing as a central service technician at a healthcare institution pursuant to subdivision (b)(1)(A), the healthcare institution shall maintain documentation that the person meets all requirements of subdivision (b)(1)(A).

(2) For any person practicing as a central service technician at a healthcare institution pursuant to subdivision (b)(1)(B), the healthcare institution shall maintain documentation of the dates for which the person was employed or otherwise contracted for services as a central service technician in the healthcare institution to verify that the person meets all requirements of subdivision (b)(1)(B).

(g) Any healthcare institution that employs or contracts with a central service technician shall submit to the department of health, upon request, including, but not limited to, during an inspection performed pursuant to this part, documentation demonstrating that the central service technician complies with the requirements of this section.

68-11-240. Participation in drug donation repository program.

Notwithstanding any rule to the contrary, a nursing home, as defined in § 68-11-201, is authorized to participate in a drug donation repository program under title 63, chapter 10 until such time as the board for licensing health care facilities promulgates rules to effectuate such participation. Nothing in this title or title 63 precludes a nursing home from utilizing a drug donation repository program for drug disposal services.
68-11-241. Promulgation of rules to permit disposal of prescription drugs.

(a) Notwithstanding this title or any rule, the board for licensing health care facilities is directed to use emergency rulemaking under § 4-5-208 to promulgate rules by January 1, 2018, to permit facilities licensed under this part to dispose of controlled substances and other prescription drugs by destruction using any means permitted by the federal drug enforcement administration.

(b) Notwithstanding this title or any rule, the board for licensing health care facilities is directed to use emergency rulemaking under § 4-5-208 to promulgate rules by January 1, 2018, to permit the disposal by donation or other means, including a drug donation repository program, of prescription drugs that are not controlled substances.

68-11-256. Criminal background checks on direct care employees of nursing homes.

(a) All nursing homes, as defined in § 68-11-201, and assisted-care living facilities, as defined in § 68-11-201, shall have a criminal background check completed prior to employing any person who will be in a position that involves providing direct care to a resident or patient.

(b) Any person who applies for employment in a position that involves providing direct care to a resident or patient in such a facility shall consent to any of the following:

   (1) Provide past work and personal references to be checked by the nursing home or assisted-care living facility;

   (2) Agree to the release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in this state, to either the assisted-care living facility or nursing home, or its agent, or to any agency that contracts with this state, or to any law enforcement agency, or to any other legally authorized entity;

   (3) Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee bureau of investigation, or a state and federal criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation; or

   (4) Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(c) A nursing home or an assisted-care living facility shall not disclose criminal background check information obtained under subsection (b) to a person who is not involved in evaluating a person’s employment, except as required or permitted by state or federal law.

(d) Any costs incurred by the Tennessee bureau of investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting the investigations of applicants may be paid by the nursing home, the assisted-care living facility, or any agency that contracts with this state requesting the investigation and information, or the individual who seeks employment or is employed. Payments of the costs to the Tennessee bureau of investigation are to be made in accordance with §§ 38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state medicaid program, if paid for by the
nursing home.

(e) This section shall also apply to any company, organization, or agency that provides or arranges for the supply of direct care staff to any assisted-care living facility or nursing home licensed in this state. The company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purposes of working in a nursing home or assisted-care living facility and shall be required to report the results of the criminal background check to any facility in which the organization arranges for that individual to work upon such a request by a facility.

(f) A nursing home or assisted-care living facility that declines to employ or terminates a person based upon criminal background information provided to the facility under this section shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

68-15-101. [Repealed.]

68-15-102. [Repealed.]

No room or apartment in any tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture for sale, in whole or in part, of coats, vests, trousers, knee pants, overalls, cloaks, shirts, ladies waists, purses, feathers, artificial flowers, or any other wearing apparel, or cigars, except by the immediate members of the family living in the room or apartment.

68-15-103. [Repealed.]

68-15-104. [Repealed.]

68-15-105. [Repealed.]

68-15-106. [Repealed.]

68-15-107. [Repealed.]

68-101-104. Electric safety code for electric-supply stations and lines. [Effective until January 1, 2018. See version effective on January 1, 2018.]

(a) The American National Standard Electrical Safety Code, edition dated August 1, 2011, prepared and published by the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York, 10017, is adopted by the general assembly for application for all processes within the state of Tennessee as the official electrical safety code, to provide a standard for safeguarding of persons from hazards arising from the installation, operation, or maintenance of:

1. Conductors and equipment in electric-supply stations; and
2. Overhead and underground electric-supply and communication lines, and work rules for the construction, maintenance, and operation of electric-supply and communication lines and equipment, and the provisions of such National Electrical Safety Code are adopted herein by reference and shall not be copied in the codified sections or provisions of the Tennessee Code.

(b) Future revisions or additions to the National Electrical Safety Code as
may be adopted, deleted, revised or changed by the Institute of Electrical and Electronics Engineers, Inc., may be adopted, deleted, revised, or amended by the general assembly as and when the general assembly may elect to adopt any such revisions, additions, deletions, modifications or changes in the National Electrical Safety Code.

c) A copy of the American National Standard Electrical Safety Code edition dated August 1, 2011, is available for viewing by the public at the office of the electrical inspection section in the department of commerce and insurance in the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, during regular state office hours.

68-101-104. Electric safety code for electric-supply stations and lines.

[Effective on January 1, 2018. See version effective until January 1, 2018.]

(a) The American National Standard Electrical Safety Code, edition dated August 1, 2016, prepared and published by the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, Piscataway, NJ 08854 or www.ieee.org, is adopted by the general assembly for application for all processes within the state of Tennessee as the official electrical safety code, to provide a standard for safeguarding of persons from hazards arising from the installation, operation, or maintenance of:

1. Conductors and equipment in electric-supply stations; and
2. Overhead and underground electric-supply and communication lines, and work rules for the construction, maintenance, and operation of electric-supply and communication lines and equipment, and the provisions of such National Electrical Safety Code are adopted herein by reference and shall not be copied in the codified sections or provisions of the Tennessee Code.

(b) Future revisions or additions to the National Electrical Safety Code as may be adopted, deleted, revised or changed by the Institute of Electrical and Electronics Engineers, Inc., may be adopted, deleted, revised, or amended by the general assembly as and when the general assembly may elect to adopt any such revisions, additions, deletions, modifications or changes in the National Electrical Safety Code.

c) A copy of the American National Standard Electrical Safety Code edition dated August 1, 2016, is available for viewing by the public at the office of the electrical inspection section in the department of commerce and insurance in the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, during regular state office hours.


(a) It is the duty of the commissioner, or the commissioner’s deputies and assistants, to require fire drills in educational and institutional occupancies.

(b) Fire drills requiring full evacuation in educational occupancies where such occupancies constitute the major occupancy of a building shall be held at least one (1) time every thirty (30) school days, with two (2) fire drills occurring during the first thirty (30) full days of the school year. Additionally, four (4) fire safety educational announcements will be conducted throughout the year. The LEA will develop the content of the educational announcements. Fire drills requiring full evacuation shall be held at least once every two (2) months in
institutional occupancies where such occupancies constitute the major occupancy of a building. A record of all fire drills, including the time and date, shall be kept in the respective school or institutional offices, and shall be made available upon request to the state fire marshal, or the state fire marshal's deputies or assistants, for inspection and review.

(c) In educational occupancies, fire drills shall include complete evacuation of all persons from the building. In institutional occupancies, fire drills shall be conducted to familiarize operating personnel with their assigned position of emergency duty. Complete evacuation of occupants from the building at the time of the fire drill shall be required only where it is practicable and does not involve moving or disturbing persons under medical care.

(d) The state fire marshal, or the state fire marshal's deputies and assistants, shall avail themselves for the training of owners, tenants or their employees in methods of fire drills, to ensure the efficient and safe use of exit facilities in buildings and to prevent panic and in the coordination of the drills with fire alarm systems.

(e) All doors serving as an exit shall be kept unlocked during the periods that a building is occupied.

(f) In addition to the fire drills required by this section in educational occupancies, safety drills not requiring full evacuation of all persons from the building shall be conducted at least three (3) times during each school year. A record of all safety drills, including the time and date, shall be kept in the respective school offices, and shall be made available upon request to the state fire marshal, or the state fire marshal's deputies or assistants for inspection and review.


(a) It is unlawful for any person, firm, association or corporation to sell, or offer for sale, for use in this state, any device, appliance, system or equipment designed to act as an alarm in the detection and prevention of fires, unless the device, appliance, system or equipment has been investigated and listed by a nationally recognized and approved independent testing agency or laboratory, or agency authorized to make such independent inspections by the state fire marshal.

(b) This section does not apply to any device, appliance, system or equipment referenced in subsection (a) offered by a public utility subject to the jurisdiction of, or regulation by, the Tennessee public utility commission or a comparable federal agency.

(c) A violation of this section is a Class C misdemeanor.

68-102-402. Retention of injured member on payroll.

Whenever a commissioned instructor employed at the Tennessee law enforcement training academy is injured in the line of duty and the injury disables the member from performing the member's regular duties, whether the disability is temporary or permanent, it is lawful for the commissioner of commerce and insurance, in the commissioner's sound discretion and with the approval of the governor and the attorney general and reporter, to retain the injured disabled member of the department on the regular payroll of the department until the member's claim for compensation for the disability is determined by the division of claims and risk management.

(a) The state fire marshal shall, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, promulgate rules establishing minimum statewide building construction safety standards. Such standards shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration and repair of buildings or structures. The standards:

1. Shall include, but not be limited to, provisions relative to structural strength and stability; energy efficiency; means of egress; fire resistant ratings and requirements; and fire protection equipment and materials;

2. May be selected wholly or partially from publications or amended versions of publications of nationally recognized agencies or organizations, such as the International Code Council, Inc., the National Fire Protection Association, Inc., and Underwriters Laboratories, Inc.;

3. Shall classify buildings according to types of occupancy and construction;

4. Shall contain appropriate requirements and specifications for both new and existing buildings;

5. Shall not discriminate against or in favor of particular construction materials or techniques;

6. Shall, to the extent practicable, be stated in terms of performance objectives without prescribing the use of certain methods, designs, techniques or materials;

7. Shall be reasonably compatible with building construction safety standards adopted by local governments in this state;

8. Shall not include mandatory sprinkler requirements for one-family and two-family dwellings; however, notwithstanding this subdivision (a)(8), local governments may adopt more stringent requirements for one-family and two-family dwellings;

(ii) If a local government seeks to adopt mandatory sprinkler requirements for one-family and two-family dwellings pursuant to this subdivision (a)(8), then the local government may only adopt such requirements, by either ordinance or resolution, as appropriate, upon an affirmative two-thirds (2/3) vote on final reading; provided, that if passage of such ordinance or resolution requires two (2) readings, then such requirements may only be adopted after reading such ordinance or resolution in open session of the legislative body at meetings specially called on two (2) different days that are no less than two (2) weeks apart; and if passage requires three (3) readings, then the last two (2) readings shall occur on two (2) different days that are no less than two (2) weeks apart. Mandatory sprinkler requirements shall be voted on in an ordinance or resolution separate from any other ordinance or resolution addressing building construction safety standards;

(ii) If a local government seeks to repeal the mandatory sprinkler requirements adopted pursuant to this subdivision (a)(8), then the local government shall repeal such requirements in the same manner as required to adopt such requirements under this subdivision (a)(8); provided, that if a local government adopted mandatory sprinkler requirements prior to April 27, 2012, then the local government may repeal such requirements in the same manner the local government...
adopted the requirements; and
(C)(i)(a) A townhouse shall be considered a separate building with
independent exterior walls and shall be separated by a two-hour
fire-resistance-rated wall assembly. A townhouse shall be built accord-
ing to local and statewide adopted building codes; provided, however,
a fire sprinkler system shall not be required for a townhouse;
(b) Notwithstanding subdivision (a)(8)(C)(i)(a), local governments
may adopt mandatory sprinkler requirements for townhouses by local
ordinance through the process for one-family and two-family dwell-
ings pursuant to this subdivision (a)(8);
(ii) For purposes of this subdivision (a)(8)(C), “townhouse” means a
single family dwelling unit constructed in a group of three (3) or more
attached units that extends from foundation to roof, not more than three
(3) stories in height, with a separate means of egress, and an open space
or public way on at least two (2) sides;
(9) The department shall analyze the cost and effectiveness of sprinkler
equipment in one-family and two-family dwellings in areas where residen-
tial sprinklers are in use, including this state and other states deemed
appropriate by the department, and report the results of the analysis to the
general assembly on or before May 1, 2010. In conducting the analysis, the
department shall seek input from nonprofit and business groups or organi-
izations, including, but not limited to, the Tennessee Fire Chiefs Association
and the Home Builders Association of Tennessee; and
(10)(A) Shall require installation of an approved carbon monoxide alarm,
as defined in § 68-120-112(a), within ten feet (10') of each room used for
sleeping purposes in any construction begun on or after January 1, 2016,
that:
(i) Is intended for use as a hotel as defined in § 68-120-112; and
(ii) Has a fossil-fuel-burning heater or appliance, a fireplace, an
attached garage, or other feature, fixture, or element that emits carbon
monoxide as a byproduct of combustion; and
(B) Shall require that carbon monoxide alarms required pursuant to
subdivision (a)(10)(A) be wired directly to the building's power supply with
secondary battery backup.
(b)(1)(A) The standards established pursuant to subsection (a) apply to
municipal, county, state and private buildings, including one-family and
two-family dwellings, unless otherwise provided by statute.
(B)(i) Notwithstanding subdivision (b)(1)(A), the standards established
pursuant to subsection (a) relative to one-family and two-family dwell-
ings do not apply in any county or municipality in which the legislative
body of the county or municipality, by a two-thirds (2/3) vote, adopts a
resolution to exempt the county or municipality, as appropriate, from
the application of statewide standards for one-family and two-family dwell-
ings within the jurisdictional boundaries of the county or municipi-
ality, as appropriate; provided, however, that any action by the county
legislative body concerning the implementation of this subdivision
(b)(1)(B)(i) shall be limited to the jurisdictional boundaries outside any
municipality located within the county. Upon approving the resolution,
the presiding officer of the legislative body shall notify the state fire
marshal of the actions taken under this subdivision (b)(1)(B)(i).
(ii)(a) An initial resolution following July 1, 2009, may be adopted by
a county or municipal legislative body to take effect on July 1, 2010,
at a later date stated in the resolution.

(b) A resolution adopted pursuant to subdivision (b)(1)(B)(ii)(a) or the adoption of any other resolution, shall expire one hundred eighty (180) days following the date of the election for the local legislative body next occurring following the adoption of the resolution, but an earlier expiration date may be stated in the resolution.

(C) The governing body of any such county or of a municipality located in any such county that has taken the action pursuant to subdivision (b)(1)(B)(i) is authorized to reverse such action by adopting a resolution to apply subsection (a) with respect to one-family and two-family dwellings within the jurisdictional boundaries of the municipality or county, as appropriate; provided, that, any action by the county legislative body concerning its actions shall be limited to the jurisdictional boundaries outside any municipality located within the county. The presiding officer of the governing body shall notify the state fire marshal of the approval of the resolution.

(D) Notwithstanding this section to the contrary, the owner of a building, structure, or premises located in a county or municipality that has taken action pursuant to subdivision (b)(1)(B) may request that the state fire marshal inspect the building, structure, or premises to determine whether the building, structure, or premises meets the statewide codes established pursuant to subsection (a). If an owner requests an inspection pursuant to this subdivision (b)(1)(D), the inspection must be conducted in accordance with this section. Upon completion of the inspection, if the state fire marshal determines that the owner's building, structure, or premises meets the statewide codes established pursuant to subsection (a), the state fire marshal must issue documentation to the owner evidencing such.

(2) Such standards do not apply to any building, other than state buildings, educational occupancies or any other occupancy requiring an inspection by the state fire marshal for initial licensure, located within the jurisdiction of a local government that certifies in writing to the state fire marshal that:

(A) The local jurisdiction has chosen to adopt and enforce building construction and fire safety codes for construction of all buildings, for construction of all buildings other than one-family and two-family dwellings, or for construction of one-family and two-family dwellings only; and

(i) For one-family and two-family construction, it has adopted the International Residential Code, published by the International Code Council, Inc.; or

(ii) For construction other than one-family and two-family dwellings, it has adopted a building construction safety code consisting of the International Building Code, published by the International Code Council, Inc., and either:

(a) The international fire code, published by the International Code Council, Inc.; or

(b) The uniform fire code, published by the National Fire Protection Association, Inc., if adopted on or after July 1, 2006; and

(B) It is adequately enforcing its code and performing any reviews of construction plans and specifications and inspections required by the state fire marshal under this section.
(C) Amended versions of the publications referred to in subdivisions (a)(2) and (b)(2)(A) shall be designed to afford a reasonable degree of safety to life and property from fire and hazards incident to the design, construction, alteration, and repair of buildings or structures within the jurisdiction.

(3) If a local jurisdiction chooses to adopt and enforce codes for only one-family and two-family dwellings or for all buildings other than one-family and two-family dwellings that would be subject to the codes adopted by the state fire marshal pursuant to subdivision (a)(1), the state fire marshal shall enforce the statewide codes with regard to those buildings for which the local jurisdiction has not adopted and is not enforcing codes.

(4)(A) An audit of the records and transactions of each local government which chooses to enforce its own code pursuant to subdivision (b)(2) shall be made by the state fire marshal at least once every three (3) years to ensure that the local government is adequately performing its enforcement functions.

(B) The state fire marshal shall, in accordance with the Uniform Administrative Procedures Act promulgate rules to implement this subdivision (b)(4).

(5) Notwithstanding subdivision (b)(2), the standards established pursuant to subsection (a) apply, if:

(A) The local government’s building construction safety code publications are not current within seven (7) years of the date of the latest editions of the publications, unless otherwise approved by the state fire marshal in writing; provided, however, that nothing in this subdivision (b)(5)(A) shall require a local government to adopt a standard more stringent than the standards enforced by the state fire marshal, pursuant to this section, or to adopt a mandatory sprinkler requirement for one-family and two-family dwellings; or

(B) After affording appropriate written notice of grounds and opportunity for hearing, the state fire marshal determines that the local government is not adequately performing its enforcement functions.

(6) Notwithstanding the applicability of the standards set forth in subsection (a) to educational occupancies, any entity undertaking to construct an educational occupancy within the jurisdictional boundaries of a local government that chooses to enforce its own code pursuant to this subsection (b) may begin construction upon approval of its building plans by such local government while, if the codes enforced by the local government are the same or more stringent than the codes enforced by the state fire marshal, awaiting final approval of its plans by the state fire marshal. If a conflict arises between the state fire marshal and the local government relative to the application or interpretation of the same or substantially identical building construction safety standards or fire safety standards, then the determination of the state fire marshal shall supersede the conflicting application or interpretation by the local government.

(c) The standards established pursuant to subsection (a) do not apply to:

(1) Renovations of existing one-family and two-family dwellings;
(2) Nonresidential farm buildings;
(3) Temporary buildings used exclusively for construction purposes;
(4) Structures or units regulated under chapter 126 of this title; or
(5) Buildings or facilities reviewed and licensed by the board for licensing
health care facilities.

(d)(1) The state fire marshal may, by rules promulgated in accordance with the Uniform Administrative Procedures Act require review and approval of plans and specifications prior to construction or alteration of certain types of buildings or structures. Such rules may include a schedule of fees sufficient to cover the costs of reviewing construction plans and specifications. However, no such fee shall exceed two hundred fifty dollars ($250) plus two dollars and fifty cents ($2.50) per each one thousand dollars ($1,000) or fraction thereof by which the total valuation of the proposed construction exceeds one hundred thousand dollars ($100,000).

(2) The state fire marshal is authorized to promulgate by rule a convenience fee to cover the costs of receiving construction plans, specifications and related fees electronically submitted pursuant to this part. Any fee set by rule pursuant to this subdivision (d)(2) shall be assessed in addition to the fee or fees assessed for the costs of reviewing construction plans and specifications pursuant to subdivision (d)(1). In no event shall the fee assessed pursuant to this subdivision (d)(2) exceed the actual costs incurred in the submission of the plans, specifications or fees electronically.

(e) The state fire marshal shall file with the secretary of state any publications incorporated by reference in rules promulgated under this section. Such publications shall be available for public inspection, and the secretary of state shall certify to any part of the publication at the request of any interested person, upon receipt of the statutory fee.

(f)(1)(A) The state fire marshal may, in addition to the other provisions of this part, authorize and appoint any person, employed by any municipality or county or acting through a professional corporation pursuant to § 48-101-601, who meets the qualifications enumerated in subdivision (f)(2) as a commissioned deputy building inspector in this division, who shall have all the power of other deputies and assistants to enter any one-family and two-family dwellings to make inspections of the buildings and their contents and to report the inspections in writing to the commissioner. The commissioner is directed to contract with each deputy building inspector through the municipality or county employing the inspector or the inspector’s professional corporation to provide one-family and two-family building inspection services. The contracts shall be entered into between the commissioner, with the approval of the commissioner of finance and administration, and the professional corporation employing the building inspector and the building inspectors shall not be deemed employees of the state for payroll purposes or otherwise.

(B)(i) A deputy building inspector shall be certified by this state as:
(a) A building inspector pursuant to § 68-120-113;
(b) A plumbing inspector pursuant to § 68-120-118; or
(c) A mechanical inspector pursuant to § 68-120-118.

(ii) A deputy building inspector shall be limited in performing inspections to the discipline in which they are certified.

(C) The commissioner shall provide a program to ensure that one-family and two-family building construction inspection services are available throughout the state on a timely basis. An inspection shall be considered timely if it is performed within three (3) working days of when the request is made to the inspector, except that an inspection of a footer shall be considered timely if it is performed within one (1) working day of
when the request is made to the inspector.

(2)(A) Deputy building inspectors appointed by the commissioner are authorized to inspect one-family and two-family building construction upon receipt of a request from the owner of the property, a licensed contractor, from municipal governing bodies or from the county legislative body of the county in which the buildings are located. Each inspector, either through their municipality, county or professional corporation, shall be authorized to charge for and receive a fee for each inspection.

(B) The state fire marshal shall establish a schedule of fees to pay the cost incurred by the department for the administration and enforcement of this part.

(C) The state fire marshal may require the inspection of one-family and two-family dwellings with or without a request, in the same manner that inspections are made in accordance with § 68-102-116, and the remedies for dangerous conditions shall be the same as provided in § 68-102-117; provided, that no fees shall be charged for making inspections directed by the state fire marshal as authorized by §§ 68-102-116 and 68-102-117.

(D) No inspection fees may be charged except where an actual inspection is made.

(3) The state fire marshal may promulgate such rules and regulations as necessary to carry out this part, in accordance with the Uniform Administrative Procedures Act.

(g) If a local government adopts mandatory sprinkler requirements for one-family and two-family dwellings pursuant to subdivision (a)(8), then such requirements shall not apply to manufactured homes constructed or installed under parts 2 and 4 of chapter 126 of this title unless such requirements are consistent with the regulations established by the United States department of housing and urban development (HUD) relating to the installation of sprinkler equipment in manufactured homes.

(h) The words “or fuel-fired appliances” in exception 2 of R501.3 of the 2012 International Residential Code, published by the International Code Council, Inc., shall be disregarded by any state or local government official in determining the applicability of R501.3 to any residential construction prior to January 1, 2016.

(i) If a local government adopts mandatory sprinkler requirements for one-family and two-family dwellings pursuant to subdivision (a)(8) that would apply to dwellings used as establishments providing hospitality services, then those mandatory sprinkler requirements shall be applied only to those dwellings constructed on or after the date the mandatory sprinkler requirements took effect. For purposes of this subsection (i), “hospitality services” means offering sleeping accommodations to transients for less than thirty (30) nights per stay.


(a)(1) This section applies to any:

(A) Public building constructed by the state or its political subdivisions on or after July 1, 2017;

(B) Existing public building for which exterior or interior renovations to any area intended for use by the general public are approved by the state
building commission on or after July 1, 2017; and

(C) Public buildings purchased by the state on or after July 1, 2017.

(2) This section does not apply to any public building listed on the national register of historic places or the Tennessee register of historic places.

(b) All stair steps leading into a public entrance of a public building must have detectable nosings of a contrasting color. The texture and color must be applied at a width of not less than one inch (1") and not more than two inches (2") for the entire length of the edge of each stair step.

(c) The nosing of stairs must be modified in accordance with this section no later than ninety (90) days after a public building is constructed, renovated, or purchased, as applicable.

(d) Notwithstanding this section, a public entity of the state exercising control over a public building of historical significance may apply for and receive a waiver from the requirements of this section from the state building commission.

(e) For purposes of this section:

(1) “Public building”:

(A) Means any building or structure owned by the state or its political subdivisions that is used by the general public for providing or receiving public benefits or public services; and

(B) Does not include any building, structure, or improved area owned by the state or its political subdivisions used by the general public as a place of gathering or amusement, including theaters, auditoriums, restaurants, hotels, factories, stadiums, shopping areas, convention centers, and all other places of public accommodations; and

(2) “Public entrance”:

(A) Means the main entrance to a public building; and

(B) Does not include any secondary entrance to a public building, including any entrance primarily used by employees.


As used in this chapter, unless the context otherwise requires:

(1) “Aerial passenger tramways” means recreational transportation of passengers on devices that are usually referred to by the following names:

(A) **Reversible Aerial Tramways.** That class of aerial passenger tramways and lifts in which the passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals;

   (i) **Single-Reversible Tramways.** That type of reversible aerial tramway that has a single carrier, or single group of carriers, that moves back and forth between terminals on a single path of travel and is sometimes called “to-and-fro” aerial tramway; and

   (ii) **Double-Reversible Tramways.** That type of reversible aerial tramway that has two (2) carriers, or two (2) groups of carriers, that oscillate back and forth between terminals on two (2) paths of travel and is sometimes called “jig-back” tramway;

(B) **Aerial Lifts and Ski Mobiles.** That class of aerial passenger tramways and lifts in which the passengers are transported in carriers and are not in contact with the ground or snow surface and in which the
carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make U-turns in the terminals and move along generally parallel and opposing paths of travel. The carriers may be open or enclosed cabins, cars, or platforms. The carriers may be fixed or detachable;

(i) **Gondola Lifts.** That type of lift where the passengers are transported in open or enclosed cabins. The passengers embark and disembark while the carriers are stationary or moving slowly under a controlled arrangement;

(ii) **Chair Lifts.** That type of lift where the passengers are transported in chairs, either open or partially enclosed;

(iii) **Ski Mobiles.** That type of lift where the passengers are transported in open or enclosed cars that ride on a rigid structural system and are propelled by a wire rope or chain; and

(iv) **Similar Equipment.** Lifts which utilize carrier configurations not specified in subdivision (1)(B)(i), (1)(B)(ii) or (1)(B)(iii), but do not require that the passenger remain in contact with the ground or snow surface;

(C) **Surface Lifts.** That class of conveyance where the passengers are propelled by means of a circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one (1) direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a “towing outfit”;

(i) **T-bar Lifts.** That type of lift where the device between the haul rope and passengers forms the shape of an inverted “T,” propelling passengers located on both sides of the stem of the “T.”

(ii) **J-bar Lifts.** That type of lift where the device between the haul rope and passenger is in the general form of a “J,” propelling a single passenger located on the one (1) side of the stem of the “J.”

(iii) **Platter Lifts.** That type of lift where the device between the haul rope and passenger is a single stem with a platter or disc attached to the lower end of the stem, propelling the passenger astride the stem of the platter, or disc; and

(iv) **Similar Equipment.** Lifts that utilize towing device configurations not specified in subdivision (1)(C)(i), (1)(C)(ii) or (1)(C)(iii), but require that passengers remain in contact with the ground or snow surface, and conform to the general description of this subdivision (1); and

(D) **Tows.** That class of conveyance where the passengers grasp the circulating haul rope, a handle attached to the circulating haul rope, or attach a gripping device to the circulating haul rope and are propelled by the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward-traveling haul rope remains adjacent to the uphill track of the passengers and at an elevation that permits them to maintain their grasp on the haul rope, handle, or gripping device throughout that portion of the tow length that is designed to be traveled;

(i) **Fiber Rope Tow.** A tow having a fiber, natural or synthetic, haul rope; and

(ii) **Wire Rope Tow.** A tow having a metallic haul rope;

(2) “Alteration” means any change or addition to the equipment other
than ordinary repairs or replacement;

(3) “Amusement device” means:

(A) Any mechanical or structural device that carries or conveys a person, or that permits a person to walk along, around or over a fixed or restricted route or course or within a defined area, including the entrances and exits to the device, for the purpose of giving persons amusement, pleasure, thrills or excitement. "Amusement device" includes, but is not limited to, roller coasters, Ferris wheels, merry-go-rounds, glasshouses, and walk-through dark houses;

(B) “Amusement device” also includes:

(i) Any dry slide over twenty feet (20') in height excluding water slides; and

(ii) Any portable tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device, except hay rides, those used solely for transporting patrons to and from parking areas, or those used for guided or educational tours, but that do not necessarily follow a fixed or restricted course; and

(C) “Amusement device” does not include the following:

(i) Devices operated on a river, lake, or any other natural body of water;

(ii) Wavepools;

(iii) Roller skating rinks;

(iv) Ice skating rinks;

(v) Skateboard ramps or courses;

(vi) Mechanical bulls;

(vii) Buildings or concourses used in laser games;

(viii) All terrain vehicles;

(ix) Motorcycles;

(x) Bicycles;

(xi) Mopeds;

(xii) Go karts;

(xiii) Bungee cord or similar elastic device;

(xiv) An amusement device that is owned and operated by a nonprofit religious, educational or charitable institution or association, if the device is located within a building subject to inspection by the state fire marshal or by any political subdivision of the state under its building, fire, electrical and related public safety ordinances;

(xv) An amusement device that attaches to an animal so that while being ridden the path of the animal is on a fixed or restricted path;

(xvi) Climbing walls; and

(xvii) Seasonal haunted houses that are open no more than three (3) months in a calendar year;

(4) “Board” means the elevator and amusement device safety board, created in § 68-121-102;

(5) “Commissioner” means the commissioner of labor and workforce development;

(6) “Complete elevator, dumbwaiter or escalator” means any elevator, dumbwaiter or escalator for which the plans and specifications and the application for the construction permit required by § 68-121-108 are filed on or after the effective date of the application of the rules and regulations adopted by the board as provided in § 68-121-103(a)(2). All other elevators,
dumbwaiters and escalators shall be deemed to be existing installations;

(7) “Department” means the department of labor and workforce development;

(8) “Dormant elevator, dumbwaiter or escalator” means an elevator or dumbwaiter whose cables have been removed, whose car and counterweight rest at the bottom of the shaftway, and whose shaftway doors are permanently boarded up or barricaded on the inside, or an escalator whose main power feed lines have been disconnected;

(9) “Dumbwaiter” means a hoisting and lowering mechanism equipped with a car that moves in guides in a substantially vertical direction, the floor area of which does not exceed nine square feet (9 sq. ft.), whose total compartment height does not exceed four feet (4'), the capacity of which does not exceed five hundred pounds (500 lbs.), and that is used exclusively for carrying freight. “Dumbwaiter” does not include a dormant dumbwaiter;

(10) “Elevator” means a hoisting and lowering mechanism equipped with a car or platform that moves in guides in a substantially vertical direction and that serves two (2) or more floors of a building. “Elevator” also includes stairway inclined lifts and platform lifts for transportation of handicapped persons;

(11) “Escalator” means a moving inclined continuous stairway or runway used for raising or lowering passengers;

(12) “Freight elevator” means an elevator used primarily for carrying freight and on which only the operator and the persons necessary for loading and unloading are permitted to ride;

(13) “Moving walks” means a moving runway for transporting passengers, where the passenger transporting surface remains parallel to its direction of motion and is uninterrupted;

(14) “Operator” means a person or the agent of a person who owns or controls, or has the duty to control, the operation of an amusement device or related electrical equipment;

(15) “Owner” means a person that owns, leases, controls or manages the operations of an amusement device and may include the state or any political subdivision of the state;

(16) “Passenger elevator” means an elevator that is used to carry persons other than the operator and persons necessary for loading and unloading.

(17) “Qualified inspector” means any person who is:

(A) Found by the commissioner to possess the requisite training and experience in respect to amusement devices to perform competently the inspections required by this chapter;

(B) Certified by the National Association of Amusement Ride Safety Officials (NAARSO) to have and maintain at least a level one certification;

(C) Is a member of, and certified by, the Amusement Industry Manufacturing and Suppliers (AIMS); or

(D) Is a member of, and certified by, the Association for Challenge Course Technology (ACCT);

(18) “Related electrical equipment” means any electrical apparatus or wiring used in connection with amusement devices;

(19) “Safety rules” means the rules and regulations governing rider conduct on an amusement device pursuant to § 68-121-125;

(20) “Serious incident” means any single incident where any person or persons are immediately transported to a licensed off-site medical care facility for treatment of an injury as a result of being on, or the operation of,
the amusement device; and

(21) “Serious physical injury” means a patron’s personal injury immediately reported to the owner or operator as occurring on an amusement device and that results in death, dismemberment, significant disfigurement or other significant injury that requires immediate in-patient admission and twenty-four-hour hospitalization under the care of a licensed physician for other than medical observation.


(a)(1) There is created the elevator and amusement device safety board, consisting of eight (8) members appointed by the governor. The focus of five (5) members of the board shall be for elevator safety, the focus of two (2) members shall be amusement device safety, and the focus of one (1) member shall be on amusement device safety, representing the interests of the traveling amusement device business, inflatables, challenge courses, or the commercial sale or rental of amusement devices. The initial appointments for two (2) of the members whose focus is amusement device safety shall be as follows: one (1) member shall be appointed for a term of three (3) years and one (1) member shall be appointed for a term of four (4) years. The term of the member representing the interests of the traveling amusement device business, inflatables, challenge courses, or the commercial sale or rental of amusement devices shall be for a term of four (4) years. At the expiration of the respective terms of each member of the board, a successor, identifiable with the same focus as provided in this section, shall be appointed for a term of four (4) years. The term or appointment of any person who is a member of the elevator and amusement device safety board shall continue until the person’s term expires and successors are appointed.

(2) Upon the death, resignation or incapacity of any member, the governor shall fill the vacancy for the remainder of the unexpired term, with a representative of the same focus as that of the member’s predecessor.

(3) Of the five (5) appointed members whose focus is elevator safety, one (1) shall be a representative of the owners and lessees of elevators within this state; one (1) shall be a representative of the manufacturers of elevators used within this state; one (1) shall be a representative of an insurance company authorized to insure the operation of elevators in this state; and two (2) shall be representatives of the public at large.

(4) The appointed member whose focus is traveling amusement device safety shall represent the interests of the traveling amusement device business.

(5) Of the two (2) appointed members whose focus is amusement device safety: one (1) member shall represent the interest of the Tennessee Fair Association; and one (1) member shall represent the interests of the fixed amusement device business and be NAARSO or AIMS certified. All members of the board shall be residents of this state.

(6) In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority.
(b) Five (5) members of the board shall constitute a quorum.

(c) The members of the board shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties in accordance with subsection (d).

(d) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) All technical issues concerning elevators, dumbwaiters, escalators, aerial passenger tramways, and amusement devices shall be heard by the elevator and amusement device safety board, which shall report findings and recommendations to the commissioner or commissioner’s designee for final disposition.

68-121-118. Responsibilities of owner or operator of amusement device — Report of fatalities, physical injuries or incidents — Inspections — Penalties.

(a) The owner or operator of an amusement device shall immediately cease to operate any amusement device upon which a fatality, serious physical injury, or serious incident has occurred. An owner shall report any accident involving a fatality, serious physical injury, or serious incident resulting from the operation of an amusement device to the commissioner, in writing, within twenty-four (24) hours and contact a qualified inspector from the list maintained by the commissioner pursuant to § 68-121-119 to conduct an inspection.

(b) The cessation shall remain in force until an inspection has been performed by a qualified inspector, the inspector has determined that the amusement device or related equipment is safe for public use, and the department has authorized the owner or operator to resume operation of the amusement device.

(c) The qualified inspector shall initiate the inspection within twenty-four (24) hours of receipt of the report of a fatality, serious physical injury, or serious incident caused by the operation of an amusement device and shall perform the inspection in a manner that proceeds with all practicable speed and minimizes the disruption of the remainder of the amusement devices at the site where the amusement device is located, as well as unrelated commercial activities. The cost of an inspection shall be paid for by the owner of the amusement device. The amusement device may resume operation, upon authorization from the department, immediately following the reasonable determination by a qualified inspector that a principal cause of the serious physical injury was the victim’s failure to comply with the posted safety rules or with verbal instructions. If an owner or operator of an amusement device fails to comply with any requirement listed in this section, that owner or operator shall incur a penalty of three hundred dollars ($300) each day, enforceable by the department, until full compliance is achieved. Any penalties deposited or collected shall be deposited into the general fund.

68-121-119. Qualified inspectors.

(a) The commissioner shall compile a list of persons who have been found to be qualified inspectors. The list shall be posted on the web site maintained by the department.

(b) The commissioner may employ or contract with qualified inspectors to
conduct inspections of amusement devices pursuant to this chapter. However, if the commissioner does not employ or contract with qualified inspectors, then owners and operators shall provide the commissioner with all resulting inspection reports.

68-121-120. Operation of amusement device — Inspections — Permit.

(a) A person shall not operate an amusement device unless the owner of the amusement device has the device inspected at least once annually by a qualified inspector, who is either provided by the commissioner or whom the owner or insurer has selected from the lists maintained on the department’s website pursuant to § 68-121-119, and has obtained written documentation from the qualified inspector that the inspection has been made and the amusement device meets American Society of Testing Materials (ASTM) standards or the Association for Challenge Course Technology (ACCT) industry standards. The owner of the amusement device is solely responsible for the cost of an inspection conducted pursuant to this subsection (a).

(b) The inspection required pursuant to subsection (a) must be conducted, at a minimum, to meet the manufacturer’s or engineer’s specifications and to follow the applicable ASTM standards or ACCT industry standards.

(c) The commissioner may conduct a spot inspection of any amusement device without notice at any time while the amusement device is operating or will be operating in this state. The commissioner’s designee may order temporary suspension of an operating permit if it has been determined after a spot inspection that an amusement device or devices are hazardous or unsafe. Operation of the amusement device shall not resume until the hazardous or unsafe condition has been corrected and subjected to reinspection by the commissioner for an inspection fee established by rule.

(d) An operator of an amusement device must be competent and at least sixteen (16) years of age. An operator shall operate no more than one (1) amusement device at any one (1) time and shall be in attendance at all times the device is in operation.

68-121-121. Maintenance, inspection, and accidents records for amusement device — Proof of inspection.

(a) Each owner or operator shall retain on the premises or with a traveling or portable amusement device for at least twenty-four (24) months, all maintenance, inspection and accident records for each amusement device. The owner shall make the records for the amusement device under inspection for failure or malfunction available to the commissioner or the board upon request. The documents may be kept electronically or digitally.

(b) An owner or operator of an amusement device, as applicable, shall prominently display or have available on location the amusement device’s proof of inspection, which shall include the date of the last inspection of the amusement device.

68-140-302. Part definitions.

As used in this part, unless the context otherwise requires:

1) “Ambulance” means any privately or publicly owned land or air vehicle that is especially designed, constructed or modified and equipped and is
intended to be used for and is maintained or operated for transportation upon the streets, highways or airways in this state for persons who are sick, injured, wounded, otherwise incapacitated, helpless, or in need of medical care;

(2) “Ambulance service” means the principal use of any privately or publicly owned ambulance for the transportation of injured or infirm persons;

(3) “Authorization” means any and all forms of official permission required by this part, including licenses, permits and certificates;

(4) “Board” means the Tennessee emergency medical services board;

(5) “Certificate” means official acknowledgment that an individual has successfully complied with all requirements to practice and has completed a training program accredited or recognized by the board;

(6) “Commissioner” means the commissioner of health, the commissioner’s duly authorized representative, or in the event of the commissioner’s absence or a vacancy in the office of commissioner, the deputy commissioner;

(7) “Community paramedic” means an individual who:

(A) Is licensed as a paramedic that delivers care in emergency and non-urgent pre-hospital settings with oversight of a physician;

(B) Has received specialized training in physiology, disease processes, injury and illness prevention, and medical system navigation, in addition to general paramedic training; and

(C) Meets the requirements for additional licensure as a community paramedic as established by the board;

(8) “Community paramedicine” means the practice by emergency medical services personnel, primarily in an out-of-hospital setting, that may include the provisions of such services as patient evaluation, advice, treatment directed at preventing or improving a particular medical condition, or referrals to other community resources, which may be provided occasionally or at irregular intervals;

(9) “Department” means the department of health;

(10) “Director” means the director of the division of emergency medical services of the department;

(11) “Emergency medical dispatcher” (EMD) means an individual certified by the department as having successfully completed a department-approved EMD course;

(12) “Emergency medical response vehicle” means any privately or publicly owned vehicle which is maintained or operated for the transportation of emergency medical care personnel, equipment, and supplies to the scene of a medical emergency for the provision of emergency medical services;

(13) “Emergency medical service director” means an individual who directs the planning, development, implementation, coordination, administration, monitoring and evaluation of services provided by a licensed ambulance service;

(14) “Emergency medical service medical director” means an individual who has an active, unencumbered license to engage in the practice of medicine pursuant to title 63, chapter 6, or chapter 9, and who provides medical advice, direction, oversight and authorization to emergency medical services personnel at a licensed ambulance service, and/or emergency medical services educational institution, including, but not limited to, quality assurance;
(15) “Emergency medical services” (EMS) means the services utilized in responding to the perceived need for immediate medical care in order to prevent loss of life or aggravation of illness or injury;
(16) “Emergency medical services personnel” means individuals certified or licensed by the emergency medical services board in accordance with various categories and classifications of licenses or certificates that the board establishes;
(17) “Invalid vehicle” means any privately or publicly owned vehicle that is maintained, operated and intended to be used to transport persons who are convalescent, or otherwise nonambulatory, and do not require medical treatment while in transit;
(18) “License” means an authorization to a person to provide ambulance services; or an authorization to an individual to practice emergency medical care as emergency medical services personnel;
(19) “Medical direction” means the supervision by a physician licensed to practice in the state of Tennessee of all medical aspects of patient care within EMS;
(20) “Member” means a member of the Tennessee emergency medical service board;
(21) “Mobile integrated health care” means the provision of health care using patient-centered, mobile resources in the out-of-hospital environment under local medical control as part of a community-based team of health and social services providers to include, but not be limited to, home health organizations and community paramedics;
(22) “Mobile prehospital emergency medical care” means those emergency medical services rendered outside the hospital facility, precedent to and during transportation of such patients to emergency treatment facilities;
(23) “Patient” means an individual who, as a result of physical or mental condition, needs medical attention;
(24) “Permit” means an authorization issued for an ambulance vehicle as meeting the standards adopted pursuant to this part;
(25) “Person” means any individual, association, organization or any other business entity, either profit or nonprofit, any state or local governmental entity, and federal agencies to the extent permitted by federal law;
(26) “Practice” means the exercise of principles and skills for effective emergency medical care under medical direction recognized as acts and responsibilities within the discipline of emergency medical services;
(27) “Run records” means ambulance run reports relative to a response by an ambulance service or invalid vehicle operator during which a patient is evaluated, treated or transported;
(28) “Service” means the provision of organized response by ambulances or emergency response vehicles, or the provision of emergency care on an organized basis;
(29) “State” means the state of Tennessee;
(30) “State emergency medical services medical director” means an individual who has an unencumbered license to engage in the practice of medicine pursuant to title 63, chapter 6 or chapter 9 and who provides medical advice, direction, and oversight for statewide medical direction, including, but not limited to, quality assurance, protocols and standing orders; and
(31) “Volunteer personnel” means persons who provide emergency care without expectation of remuneration who do not receive payment for
services rendered, and who do not depend on the provision of emergency care for their livelihood or a substantial portion of their livelihood.


In addition to any other power, duty or responsibility given to the board by this part, the board has the power, responsibility and duty to:

(1) Approve schools, establish and prescribe courses, and establish and prescribe the curricula and minimum standards for training, as required to prepare persons for certification under this part;

(2) Promulgate regulations governing the issuance of such licenses, permits and certificates for services, vehicles or personnel as required by this part, and condition such issuance as necessary. These regulations may establish various categories and classifications of licenses, permits and certificates;

(3) Establish minimum standards governing the activities and operations of various categories of services, vehicles or personnel, licensed, permitted or certified by the board;

(4) Provide hearings in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to persons seeking review of actions of the department, the board, or the commissioner, and hear and decide those enforcement and disciplinary matters presented by the department;

(5) Issue such orders as may be necessary or helpful to effectuate this part;

(6) Establish standards for the amounts and types of insurance coverage required for authorized providers of emergency medical services in this state; provided, however, that:

(A) Coverage shall extend to an EMS vehicle whether operated by the owner or the owner's agent; and

(B) In the case of a local government, the board may consider compliance with the Governmental Tort Liability Act, compiled in title 29, chapter 20, as satisfaction of this requirement;

(7) Regulate the development and operation of emergency medical services telecommunication systems;

(8) Promulgate rules establishing fees as provided in this part;

(9) Establish standards pursuant to the Uniform Administrative Procedures Act for emergency medical dispatch;

(10) Certify paramedic training centers operated by a fire department that operates its own fire training academy to provide training for career paramedics employed by the fire department;

(11) Enter into agreements or contracts with any person to assist impaired professionals who are licensed, permitted or certified by the board; and

(12) Establish standards for a community paramedic through promulgation of rules pursuant to the Uniform Administrative Procedures Act. These standards shall provide that the evaluation, advice, and treatment are within the scope of practice of emergency medical services personnel when specifically requested or directed by a physician as a means of delivering mobile integrated health care.
68-201-115. Local pollution control programs — Exemption from state supervision — Applicability of part to air contaminant sources burning wood waste — Open burning of wood waste.

(a) Any municipality or county in this state may enact, by ordinance or resolution respectively, air pollution control regulations not less stringent than the standards adopted for the state pursuant to this part, or any such municipality or county may also adopt or repeal an ordinance or resolution which incorporates by reference any or all of the regulations of the board, or any federal regulations including any changes in such regulations, when such regulations are properly identified as to date and source. Copies of air pollution regulations shall be made available to any interested party, and the city or municipality may charge reasonable compensatory fees for providing such copies. At least three (3) copies of such regulations that are incorporated by reference shall be filed in the office of the county clerk and there kept for public use, inspection and examination. The filing requirements shall not be deemed to be complied with, unless the required copies of such regulations are filed with the clerk for a period of thirty (30) days before the adoption of the ordinance or resolution which incorporated such regulations by reference. No ordinance or resolution incorporating regulations by reference shall be effective until published in a newspaper having a general circulation in the municipality or county.

(b) Before such ordinances or resolutions enacting air pollution control regulations becomes effective, such municipality or county must apply for and receive from the board a certificate of exemption by the following procedure:

1. Any political subdivision desiring to be exempted from this part may file a petition for certificate of exemption with the technical secretary. The technical secretary shall promptly investigate such petition and make recommendation to the board as to its disposition;

2. Upon receiving the recommendation of the technical secretary, the board may, if such recommendation is for the granting of the petition, do so without hearing. If the recommendation of the technical secretary is against the granting of the petition or the board, in its discretion, concludes that a hearing would be advisable, then a hearing shall be held not later than sixty (60) days after receipt of recommendation of the technical secretary by the board;

3. The certificate of exemption shall be granted if the board determines that:

   A. The municipality or county has enacted provisions for the control of air pollution not less stringent than this part;

   B. The enactments referenced in subdivision (b)(3)(A) are being, or will be, adequately enforced; and

   C. The granting of the certificate will not interfere with the state's goal of maintaining the purity of the air resources of the state;

4. The board may grant a certificate of exemption, in whole or in part, may prescribe a time schedule for various parts of an exemption to become effective, and may make a certificate of exemption conditional or provisional as is deemed appropriate;

5. In granting any certificate of exemption, there is reserved to the state the right to initiate proceedings to enforce any applicable resolution,
ordinance or regulation of the municipality or county should it fail to obtain compliance with the resolution, ordinance or regulation. Such proceedings shall be the same as for enforcement of any duly promulgated rule or regulation of the board;

(6) In granting any certificate of exemption, the exemption is to be strictly construed as limited to the language of the exemption. No power or authority that is not expressly stated in the certificate of exemption may be implied. The municipality or county may further petition the board for such power or authority; and

(7) The department shall frequently determine whether or not any exempted municipality or county meets the terms of the exemption granted and continues to comply with this section. If a determination is made that the municipality or county does not meet the terms of the exemption granted or does not comply with this section, the department shall so notify the board, and the board, upon reasonable notice to the municipality, may suspend the exemption in whole or in part until such time as the municipality or county complies with the state standards.

(c)(1) All new certificates of exemption shall be for a fixed term not to exceed two (2) years. This part does not apply to emissions from any air contaminant source, as defined in this part, which burns wood waste solely for the disposition of such wood waste; provided, however, that open burning of wood waste within two hundred feet (200') of an occupied building by any person other than an occupant of the building shall only be conducted as follows:

(A) At least one (1) person shall be constantly present at the burning during the entire time of the burn;

(B) Each burn shall not exceed forty-eight (48) hours in duration;

(C) Burning shall not occur more than twice in any thirty-day period; and

(D) If the burning occurs within one hundred feet (100') of an occupied building, it may only occur if an adult occupant of the building gives written authorization for the burn to occur and has not rescinded the authorization in writing.

(2) Provided further, however, that, if a local government has enacted or enacts more stringent requirements concerning such open burning of wood waste, those provisions shall control over the requirements of this subsection (c).

(d) Local government actions taken in accordance with this section shall be conducted in accordance with the Major Energy Project Act of 1981, compiled in title 13, chapter 18, when the action includes a major energy project, as defined in § 13-18-102.

(e)(1) If a municipality or county has received a certificate of exemption pursuant to this section, then the municipality or county shall offer a process to grant waivers from its open burning regulations.

(2) Open burning waivers may be approved by the director of the municipal or county air pollution program, if there is no other practical, safe, and lawful method of disposal; provided, that the burning is conducted in a manner to protect public health and the environment.

(3) Nothing in this subsection (e) shall be construed as eliminating or limiting the sanctions or obligations imposed by title 39, chapter 14, part 3.

(f) No municipality or county shall include land use or zoning requirements
in its air pollution control regulations or the municipality’s or county’s certificate of exemption granting the municipality or county the authority to enact the regulations.

(g) No municipality or county shall request that the board include land use or zoning requirements in the state implementation plan submitted to the United States environmental protection agency pursuant to 42 U.S.C. § 7410.

68-204-101. State energy policy council created.

There is created the state energy policy council, to be administratively attached to the office of the comptroller of the treasury.

68-204-102. “Council” defined.

For the purposes of this chapter, “council” means the state energy policy council.

68-204-103. Duties and responsibilities of council.

(a) The council is created to advise and make recommendations to the governor and to the general assembly on how to:

1. Identify all state energy resources to ensure a secure, stable, and more predictable energy supply;
2. Manage the use of energy resources; and
3. Increase domestic energy exploration, development, and production within the state and region, with the goal of promoting economic growth and job creation while ensuring the protection and preservation of the state’s natural resources, cultural heritage, and quality of life.

(b) The council shall have the following general duties and responsibilities:

1. Compile an annual report assessing the energy sector in this state, including the opportunities and the constraints presented by various uses of energy, to facilitate the expansion of the domestic energy supply, and to encourage the efficient use of all such energy forms in a manner consistent with state energy policy;

2. Develop an ongoing comprehensive state energy policy plan to achieve maximum effective management and use of present and future sources of energy. The policy plan may include energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the state’s energy infrastructure and energy economy, including smart grid and domestic energy resources, including, but not limited to, natural gas, coal, hydroelectric power, solar, wind, nuclear, and biomass;

3. Create an annual energy policy plan that recommends:
   A. Necessary energy legislation to the governor and to the general assembly;
   B. The promulgation of necessary rules to regulatory boards charged with administering this title; and
   C. The implementation and modification of energy policy, plans, and programs as the council considers necessary and desirable;

4. Continually review and coordinate all state government research, education, and management programs relating to energy matters;

5. Educate and inform the general public regarding any energy matters;
and

(6) Actively engage in discussions with federal government agencies and leaders to identify opportunities to increase domestic energy supply within this state.

(c) The council shall serve as the central energy policy planning body of the state and shall communicate and cooperate with federal, state, regional, and local bodies and agencies for the purpose of affecting a coordinated energy policy.

68-204-104. Members of council.

(a) The council shall be comprised of fourteen (14) members as follows:

(1) The governor or the governor’s designee shall serve as an ex officio, voting member of the council;

(2) The governor shall appoint:

(A) One (1) representative of energy resource extraction or energy production industries, excluding the Tennessee Valley authority, who may be appointed from lists of qualified persons submitted by interested energy resource extraction or energy production industries including, but not limited to, the biofuel, oil and gas, wind, coal, solar energy, geothermal energy, hydropower, and nuclear energy industries. The governor shall consult with the industries listed in this subdivision (a)(2)(A) to determine qualified persons to fill the position on the council;

(B) One (1) representative of a commercial, industrial, or agricultural energy consumer; and

(C) One (1) representative of an institution of higher education in this state;

(3) The speaker of the house of representatives shall appoint:

(A) One (1) representative of the energy research and development industry, who may be selected from lists of qualified persons submitted by interested research and development industries, including, but not limited to, the Oak Ridge National Laboratory. The speaker shall consult with the industries described in this subdivision (a)(3)(A) to determine qualified persons to fill the position on the council;

(B) One (1) representative of the Tennessee Valley authority;

(C) One (1) representative of a local distribution utility; and

(D) One (1) representative of a transportation-related industry; including, but not limited to, wholesalers, transportation equipment manufacturers, shipping companies, and local transit authorities;

(4) The speaker of the senate shall appoint:

(A) One (1) residential energy user;

(B) One (1) representative of environmental groups;

(C) One (1) representative of the industries that provide natural gas to consumers in this state; and

(D) One (1) representative who is knowledgeable of and has expertise in energy efficiency and energy conservation as it relates to the built environment, who may be selected from lists of qualified persons submitted by interested parties from the engineering and architectural professions in this state. The speaker shall consult with the professions described in this subdivision (a)(4)(D) to determine qualified persons to fill the position on the council;
(5) The state treasurer or the treasurer's designee shall serve as an ex officio, nonvoting member of the council; and

(6) One (1) nonvoting student member with expertise in energy issues and energy policy, who, during the person's tenure as a member of the council, is enrolled as a graduate student in an institution of higher education in this state. The student member shall be appointed by the council from nominations submitted by university faculty members at such institutions.

(b) In addition to any other requirements for membership on the council, all persons appointed or otherwise named to serve as members of the council shall be bona fide residents of this state, and shall continue to reside in this state during their tenure on the council.

(c)(1) All appointments to the council shall be made by July 1, 2017.

(2) In order to stagger the terms of the newly appointed council members, initial appointments shall be made as follows:

(A) The members listed in subdivision (a)(2) shall serve initial terms of one (1) year, which shall expire on June 30, 2018;

(B) The members listed in subdivision (a)(3) shall serve initial terms of two (2) years, which shall expire on June 30, 2019; and

(C) The members listed in subdivision (a)(4) shall serve initial terms of three (3) years, which shall expire on June 30, 2020.

(3) The student member appointed pursuant to subdivision (a)(6) shall serve a term of two (2) years, but shall not serve more than two (2) consecutive terms as a member of the council.

(d)(1) Following the expiration of members' initial terms as prescribed in subdivision (c)(2), all three-year terms shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(2) All members shall serve until the expiration of the term to which they were appointed and until their successors are appointed and qualified.

(3) In case of a vacancy in the membership on the council prior to the expiration of a member's term, a successor shall be appointed within thirty (30) days of the vacancy for the remainder of the unexpired term by the appropriate appointing authority and in the same manner as the original appointment.

(e) The appointing authorities may remove any member of the council for misconduct, incompetency, willful neglect of duty, or other just cause.

(f) Prior to beginning their duties, each member of the council shall take and subscribe to the oath of office provided for state officers.

(g) In making appointments to the council, the appointing authorities shall strive to ensure that the council is composed of persons who are diverse in professional or educational background, ethnicity, race, sex, geographic residency, heritage, perspective, and experience.

68-204-105. Chair — Quorum — Reimbursement of expenses — Conflict of interest policy.

(a) The chair of the council shall be appointed by the governor from among the council's membership and shall call the first meeting of the council. The chair shall serve in that capacity for one (1) year and shall be eligible for reappointment. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(b) Each member, upon expiration of the member's term, shall continue to
hold office until a successor is appointed.

(c) A majority of those members serving on the council shall constitute a quorum.

(d) Members appointed pursuant to § 68-204-104(a)(2)-(4) shall be eligible for reappointment to the council following the expiration of their terms, but shall serve no more than two (2) consecutive three-year terms.

(e) Members shall receive no compensation for their service on the council, but shall be reimbursed for travel and other necessary expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(f) The council shall adopt and implement a conflict of interest policy for its members. The policy shall mandate annual written disclosures of financial interests, other possible conflicts of interest, and an acknowledgement by council members that they have read and understand all aspects of the policy. The policy shall also require persons who are to be appointed to the council to acknowledge, as a condition of appointment, that they are not in conflict with the conditions of the policy.

68-204-106. Organization of work of council — Rules of procedure — Meetings.

(a) To facilitate the work of the council and for administrative purposes, the chair of the council, with the consent and approval of the members, shall organize the work of the council to carry out the requirements of this chapter and to ensure the efficient operation of the council.

(b) The council shall:

(1) Adopt its own rules of procedure;

(2) Meet quarterly, with members to be physically present at a minimum of two (2) quarterly meetings each calendar year. Members may also participate by teleconference call, provided that all other requirements of this subdivision (b)(2) are met. Emergency meetings may be called by the chair or upon petition by a majority of the council, with written notice being given to all members; and

(3) Make nonsubstantive policy relating to the administrative operation of the council.

68-204-107. Request for information — Request for reports and forecasts — Request for funds — Attachment to office of comptroller.

(a) The council may request information from any state officer, office, department, commission, board, bureau, institution, or other agency of the state and its political subdivisions that is deemed necessary to carry out the requirements of this chapter. All officers and agencies shall cooperate with the council and, to the extent permitted by law, furnish any information to the council that it may request.

(b) To assure the adequate development of relevant energy information, the council may request energy producers and major energy consumers, as determined by the council, to file any reports and forecasts; however, the council may request only specific energy-related information that it deems necessary to carry out its duties.

(c) The council is authorized to apply for and utilize grants, contributions,
appropriations, and any other sources of revenue which shall be deposited in the energy policy development resources fund created under § 68-204-109, in order to carry out its duties; however, all applications and requests for grants and other revenues shall be made through and administered by the office of the comptroller of the treasury.

(d) The council may request the office of the comptroller of the treasury to allocate and dispense any funds made available to the council for energy research and related work efforts in such a manner as the council determines; provided, that the funds shall be used in furtherance of the purposes of this chapter.

(e) The council shall be attached to the office of the comptroller of the treasury for administrative matters relating to budgeting, audit, and other related items only. The autonomy and authority of the council are not affected by such attachment, and the office of the comptroller of the treasury shall have no administrative or supervisory control over the council.

(f) All administrative costs of the council, including, but not limited to, the cost of the annual reports required pursuant to § 68-204-108, shall be payable out of any funds allocated to and received by the council.

68-204-108. Comprehensive reports.

(a) The council shall compile, compose, and publish, and transmit to the governor, the speaker of the senate, and the speaker of the house of representatives, two (2) annual comprehensive reports as follows:

(1) An annual assessment of the state’s energy sector as prescribed in § 68-204-103(b)(1), to be facilitated by the Howard H. Baker Jr. Center for Public Policy at the University of Tennessee; and

(2) A report to create a comprehensive state energy policy plan as prescribed in § 68-204-103(b)(2).

(b) The annual assessment of the state’s energy sector, as prescribed in subdivision (a)(1), shall include, but not be limited to, the following:

(1) The statewide projected growth and development as it relates to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the council, will significantly affect energy needs; and

(2) An assessment of growth trends in energy consumption and production, and an identification of potential adverse social, economic, or environmental impacts which may be imposed by a continuation of the present trends, including a rise in energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and a loss of scenic and natural areas.

(c) The comprehensive state energy policy plan, as prescribed in subdivision (a)(2) shall include, but not be limited to, the following:

(1) Recommendations to the governor and the general assembly for additional administrative and legislative actions on energy matters in the context of the current energy sector in this state; and

(2) A summary of the council’s activities since the last filing of the energy policy plan, a description of major plans developed by the council, an assessment of plan implementation, and a review of council plans and programs for the coming biennium.

(a) There is created a special account in the state treasury to be administered by the office of the comptroller of the treasury and to be known as the energy policy development resources fund, referred to in this section as the “energy resources fund.”

(b) The comptroller may disburse moneys in the energy resources fund to the council for the following purposes:

(1) Developing the comprehensive state energy policy plan, as prescribed in § 68-204-103;

(2) In furtherance of the purposes of this chapter; and

(3) To offset the cost of administering this chapter.

(c) A grant from the energy resources fund shall be disbursed in an annual amount of fifty thousand dollars ($50,000). It is the legislative intent that the annual amount be appropriated each fiscal year in the general appropriations act for awarding a grant.


(a) Nothing in this chapter amends or repeals in any manner the Energy Efficient Schools Initiative (EESI) of 2008, compiled in title 49, chapter 17, or other provisions of law relating to the energy efficient schools council and its powers, duties, and functions.

(b) Nothing in this chapter applies to the powers, duties, and functions undertaken pursuant to the authority of the Energy Efficient Schools Initiative (EESI) of 2008, compiled in title 49, chapter 17.

68-211-813. Municipal solid waste regions — Board — Plan for disposal capacity and waste reduction — Regional municipal solid waste advisory committee.

(a)(1) After consideration of the needs assessment is completed, municipal solid waste regions shall be established by resolutions of the respective county legislative bodies by December 12, 1992. A municipal solid waste region shall consist of one (1) county or two (2) or more contiguous counties. If the region consists of more than one (1) county, an agreement establishing the region shall be approved by the legislative body of each county that is a party to the agreement.

(2) Once established, municipal solid waste regions shall continue to exist until dissolved, a successor region or regions established and the requirements of this section are met. A municipal solid waste region may be dissolved and a new region or reconfigured region established upon completion of the following procedure:

(A) The approval of the dissolution of the existing region by resolution of the county legislative body of each county in the existing region;

(B) The approval of the proposed new or reconfigured region by resolution of the county legislative body of each county that is to be a part of the new or reconfigured region;

(C) The submittal to the department of environment and conservation of a list of the new board members, their addresses, phone numbers, terms of office and a new or revised plan for any new or reconfigured region that
complies with the requirements of this part; and

(D) The approval of the department of environment and conservation of all of the new or revised plans for all of the new or reconfigured regions.

(3) Each county and region shall continue to follow the existing approved plan until new or revised plans are approved by the department of environment and conservation for each new or reconfigured region.

(4) The preferred organization of the regions shall be multi-county. Any county adopting a resolution establishing a single-county region shall state the reasons for acting alone in the resolution.

(b)(1)(A) The resolution establishing a region for a county or approving an agreement to establish a region with other counties shall provide for the establishment of a board to administer the activities of the region. This board shall consist of an odd number, not less than five (5) nor more than fifteen (15). Each county that is a member of a region shall be represented by at least one (1) member on the board. Municipalities that provide solid waste collection services or provide solid waste disposal services, directly or by contract, shall be represented on the board. The members of the board shall be appointed by the county mayors and municipal mayors, respectively, of the counties and eligible municipalities within the region. Municipalities entitled to representation on the board may agree to joint or multiple representation by a board member or for a county member to represent one (1) or more municipalities upon agreement of all local governments who share representation by a board member. Any such agreement shall specify the method of making the appointment for a member representing more than one (1) local governmental entity. Members of county and municipal governing bodies, county mayors, municipal mayors, county and municipal officers and department heads may be appointed to the board. Appointments must be approved by the legislative or governing bodies of the respective counties and eligible municipalities within the region. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board shall have approximately one third (1/3) of the members with terms of two (2) years, and approximately one third (1/3) of the members with terms of four (4) years, so as to stagger the terms of office.

(B) The county and municipal mayors, and any other authorities, who appoint members to regional boards created under subdivision (b)(1)(A) must strive to ensure that at least two (2) elected officials serve on each regional board.

(2) Any county that has a solid waste authority, not organized pursuant to part 9 of this chapter and in existence on July 1, 1991, may designate such authority as the board to administer the activities of the region, if such county chooses to be a region unto itself. The legislative body of the county and of each municipality that provides solid waste collection services or solid waste disposal services in the region shall approve such designation by the passage of an appropriate resolution.

(3) Appointments made after July 1, 1994, to the board for a municipal solid waste region consisting of counties having a population less than two hundred thousand (200,000), according to the 1990 federal census or any subsequent federal census, shall be made so that rural landowners shall have representation on the board, and by December 31, 1998, at least thirty
percent (30%) of the membership shall consist of members who own at least a fifty percent (50%) equitable or fee simple interest in land that is eligible for classification as agricultural, forest or open space land under the terms of the Agricultural, Forest and Open Space Land Act of 1976, compiled in title 67, chapter 5, part 10.

(c) Each region shall develop a plan for a ten-year disposal capacity, and for achieving compliance with the waste reduction and recycling goal required by § 68-211-861.

(d) The legislative body of any municipality which lies within the boundaries of two (2) or more regions shall select by resolution in which region it shall participate.

(e) Within each municipal solid waste region, the board of the region shall establish a regional municipal solid waste advisory committee whose composition shall be determined by the board.

68-211-862. Records of origin and amount of solid waste received at transfer stations, disposal facilities, and incinerators — Exclusion — Measurement of amount of solid waste received.

(a) The owner or operator of each Class I municipal solid waste disposal facility, incinerator, or transfer station shall be responsible for:

1. Maintaining an accurate written record of all amounts and county of origin of solid waste, measured in tons, received at the facility; and
2. Submitting the information required under subdivision (a)(1) to the department.

(b) Measurement in tons of solid waste received shall be accomplished by one (1) or more of the following methods:

1. The provision of stationary or portable scales at the disposal facility or incinerator or transfer station for weighing incoming waste; or
2. Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility, incinerator, or transfer station for weighing all waste destined for disposal at the facility.


(a) The commissioner shall establish and maintain a statewide solid waste planning and management data base which can aggregate and analyze county reports on waste generation, collection, recycling, transportation, disposal and costs.

(b) The department may provide guidelines and best practices for composting and recycling to regional board members, advisory committees, and Class I, Class III, and Class IV landfill owners and operators.

68-215-111. Use of fund.

(a) The fund shall be available to the board and the commissioner for expenditures for the purposes of providing for the investigation, identification, and for the reasonable and safe cleanup, including monitoring and maintenance, of petroleum sites and locations from which underground storage tank
systems have been removed within the state as provided in this chapter.  

(b) The fund may also be used by the commissioner as a source of federal matching funds for the state in the petroleum underground storage tank program.

(c) The commissioner may enter into contracts and use the fund for those purposes directly associated with identification, investigation, containment and cleanup, including monitoring and maintenance prescribed above, including:

1. Hiring consultants and personnel;
2. Purchase, lease or rental of necessary equipment; and
3. Other necessary expenses.

(d) The fund may be used for the administrative costs of the underground storage tank program and be included in the department’s annual budget request to the general assembly.

(e) The fund may be used to provide a mechanism to meet the financial responsibility requirements for owners or operators, or both, of petroleum underground storage tanks for cleanup of contamination and third-party claims due to bodily injury or property damage, or both, caused by releases from petroleum underground storage tanks.

(f)(1) The fund may be used to provide for cleanup of contamination in accordance with conditions for eligibility and coverage of releases established in this part and in rules of the board.

2. Petroleum underground storage tanks for which notification has been received by the commissioner are eligible for reimbursement from the fund for the costs of cleanup of contamination caused by releases from the tanks; however, before costs related to a particular release may be reimbursed, all of the applicable requirements of this part and the rules must be met.

3. The board is authorized to promulgate rules that establish the following:

(A) The amount of the deductible that must be incurred by either the tank owner or operator or the owner of the petroleum site at the time of corrective action before the tank owner or operator or the owner of the petroleum site is eligible to receive reimbursement from the fund. Notwithstanding this authority, in no event shall the board set the amount of this required deductible at a level greater than thirty thousand dollars ($30,000) per occurrence; and

(B) A system of incentives to provide for reduced required deductible amounts in order to encourage tank owners to use technologies or management practices that go beyond the minimum requirements related to release detection and prevention for tanks and piping. In order to qualify for the incentives, the technologies or management practices must be found by the board to be proven methods of significantly enhancing prevention of releases or reducing the detection timeframe for releases.

4. The amount of the deductible that must be incurred by either the tank owner or operator or the owner of the petroleum site, before the tank owner or operator or the owner of the petroleum site is eligible to receive reimbursement from the fund for an occurrence reported to the department on or after July 1, 2005, shall be twenty thousand dollars ($20,000) per occurrence; provided, however, that, pursuant to subdivision (f)(2)(A), the board may promulgate rules raising the amount of the deductible to a maximum of thirty thousand dollars ($30,000) per occurrence. In addition,
the board is authorized to set the required deductible at lower amounts, if the board determines that the condition of the fund warrants setting it at lower amounts.

(5)(A) The fund shall be responsible for up to a maximum of one million dollars ($1,000,000) of cleanup costs. The sum of the deductible and the maximum reimbursement shall not exceed one million dollars ($1,000,000). The fund shall be responsible for cleanup of contamination due to releases from petroleum underground storage tanks on a per site per occurrence basis.

(B) Notwithstanding subdivision (f)(5)(A), the fund shall be responsible for up to a maximum of two million dollars ($2,000,000) of cleanup costs for sites still undergoing corrective action on July 1, 2015, and releases that occur on or after July 1, 2015. The sum of the deductible and the maximum reimbursement shall not exceed two million dollars ($2,000,000). The fund shall be responsible for cleanup of contamination due to releases from petroleum underground storage tanks on a per-site, per-occurrence basis.

(6) Unless it has been determined by the commissioner that the expenditure of fund dollars for removal, replacement, or repair of property improvements, including, but not limited to, petroleum dispensing equipment, canopies, signage, buildings and out buildings would result in a reduction of the total cost of cleanup activities at a petroleum site from what would be required otherwise, neither the fund nor the deductible for cleanup shall be used for the repair, replacement, or maintenance of petroleum underground storage tanks or property improvement on which the petroleum underground storage tanks are located, including, but not limited to:

(A) Underground storage tank repair;
(B) Underground storage tank replacement;
(C) Repair or maintenance of associated lines; and
(D) Replacement of asphalt or concrete.

(7)(A) If there is evidence of a suspected or a confirmed release on or after July 1, 2004, in order for the tank owner, tank operator or petroleum site owner to receive reimbursement from the fund, an application for fund eligibility shall be filed:

(i) Within ninety (90) days of the discovery of evidence of a suspected release which is subsequently confirmed in accordance with the rules promulgated pursuant to this part; or

(ii) Within sixty (60) days of a release which was identified in any manner other than the process for confirmation of a suspected release stated in the rules promulgated pursuant to this part.

(B) The tank owner or tank operator shall send notification to the petroleum site owner by certified mail, return receipt requested, within seven (7) days of confirmation of a release. Failure to comply with the applicable deadline of subdivision (f)(7)(A)(i) or (f)(7)(A)(ii) shall make the release ineligible for reimbursement from the fund.

(8) On or after July 1, 2004, all applications for payment of costs of cleanup shall be received by the division within one (1) year of the performance of the task or tasks covered by that application in order to be eligible for payment from the fund.

(g)(1) Petroleum underground storage tanks for which notification has been received by the commissioner are eligible for reimbursement from the fund.
for third-party claims involving bodily injury or property damage caused by releases from petroleum underground storage tanks; however, before payment for the claims related to a particular release may be paid, all of the applicable requirements of this part and the rules promulgated by the board must be met.

(2) The board is authorized to promulgate rules that establish the amount of the deductible for third-party claims for bodily injury or property damage that must be incurred by either the tank owner or operator or the owner of the petroleum site subject to the claim, before the amount of the claim in excess of the deductible may be paid by the fund. Notwithstanding this authority, in no event shall the board set the amount of this required deductible at a level greater than thirty thousand dollars ($30,000) per occurrence.

(3) The amount of the deductible for the third-party claims for the tank owner or operator or the owner of any petroleum site for an occurrence reported to the department on or after July 1, 2005, shall be twenty thousand dollars ($20,000); provided, however, that, pursuant to subdivision (g)(1), the board may promulgate rules setting the amounts of financial responsibility at greater amounts, up to a maximum of thirty thousand dollars ($30,000) per occurrence. In addition, the board is authorized to set the required deductible at lower amounts, if the board determines that the condition of the fund warrants setting it at lower amounts.

(4) The fund shall be responsible for court awards involving third-party claims up to a maximum of one million dollars ($1,000,000). The sum of the deductible and the maximum reimbursement shall not exceed one million dollars ($1,000,000). The fund shall be responsible for third-party claims involving bodily injury or property damage, or both, caused by releases from petroleum underground storage tanks on a per site per occurrence basis. All claims against the fund for third-party damages must have been awarded in a court of suitable jurisdiction.

(h) All claims against the fund are clearly obligations only of the fund and not of the state, and any amounts required to be paid under this part are subject to the availability of sufficient moneys in the fund. The full faith and credit of the state shall not in any way be pledged or considered to be available to guarantee payment from such fund.

(i) Notwithstanding any provision of this part, tanks that are owned by the state of Tennessee are not eligible for reimbursement for either cleanup costs or third party claims.


Nothing in this part shall be construed as impairing the powers and duties of the Tennessee public utility commission with respect to special districts empowered to provide water services.


(a)(1) The governing body of the authority shall be a board of commissioners of five (5) persons appointed by the executive officer of the creating governmental entity and approved by its governing body.

(2) The board of commissioners shall include a person of good standing and reputation in each of the following fields: engineering, law, industry or
commerce, and finance.

(b)(1) If there are one (1) or more participating governmental entities, one (1) additional member of the board shall be appointed by the executive officer of each participating governmental entity and approved by its governing body.

(2) The vote of each member of the board shall reflect the population of the area of the governmental entity which the member represents, with the five (5) members representing the creating governmental entity, each having a vote reflecting one fifth \(\frac{1}{5}\) of the population of the area of the entity.

(c) Commissioners first appointed to the board shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively, but thereafter each commissioner shall be appointed for a term of five (5) years.

(d)(1) Any vacancy by reason of nonresidence, incapacity, resignation or death shall be filled in like manner for the unexpired term.

(2) A commissioner's term shall continue until the appointment and qualification of such commissioner's successor.

(3) A commissioner may be removed from office by a two-thirds \(\frac{2}{3}\) vote of the governing body of the governmental entity which approved the commissioner's appointment, but only after notice of the cause of the removal shall have been served upon the commissioner, and only after the commissioner shall have been granted an opportunity for a public hearing on such cause.

(e)(1) The board shall elect from among its members a chair and vice chair, each of whom shall continue to be voting members, and shall adopt its own bylaws and rules of procedure.

(2) The presence of commissioners having a majority of the voting strength of the commissioners shall constitute a quorum for the transaction of business.

(3) Except as herein expressly otherwise specified, all powers herein granted to an authority shall be exercised by the board.

(4) Commissioners shall receive no salary but shall be reimbursed for necessary expenses incurred in the performance of their official duties.

(5) Neither the Tennessee public utility commission nor any other board or commission of like character hereafter created shall have jurisdiction over the authority in the management and control of any treatment works, including the regulation of its rates, fees or charges.

(f)(1) All members of the board shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(3).

(2) In each continuing education period after the initial training and continuing education required by subdivision (f)(1), a board member shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(3). For the purposes of this subsection (f), “continuing education period” means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (f)(1) and each succeeding three-year period thereafter.

(3) The subjects for the training and continuing education required by this subsection (f) shall include, but not be limited to, board governance,
financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of an authority.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for board members covering the subjects set forth in subdivision (f)(3) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum shall be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller shall be updated every three (3) years and resubmitted to the comptroller for review and approval.

(5) For purposes of this subsection (f), a board member may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller’s designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (f). If the extension is granted, the board member must complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The board member shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(g) If any member of the board fails to meet the training and continuing education requirements set forth in subsection (f) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller’s designee, then such member shall not be eligible for reappointment or reelection to another term of office.


(a) An authority has all powers necessary to accomplish the purposes of this part (excluding the power to levy and collect taxes) including, but not limited to, the following:

(1) Have perpetual succession, sue and be sued, and adopt a corporate seal;

(2) Plan, establish, acquire, construct, improve and operate one (1) or more treatment works within or without the creating and participating governmental entities and within this state and within any adjoining state;

(3) Acquire real or personal property or any interest therein by gift, lease or purchase, for any of the purposes herein provided; and to sell, lease or otherwise dispose of any such property;

(4) Enter into agreements with the creating governmental entity or with participating governmental entities, to acquire by lease, gift, purchase or otherwise, any treatment works, or property related thereto, of such governmental entity and operate such treatment works as a part of its treatment works; or enter into agreements with participating governmental entities providing for the operation by the authority of the treatment works, or any portion thereof, owned by any participating governmental entity;

(5) Enter into agreements with the creating governmental entity and participating governmental entities with respect to the manner of transfer of
treatment works employees of such governmental entities to the authority, and with respect to the retention by such employees of existing civil service status and accrued pension, disability, hospitalization and death benefits;

(6) Enter into, by contract with the creating governmental entity or otherwise, a plan of civil service for employees of the authority;

(7) Enter into, by contract with the creating governmental entity or otherwise, a plan for pension, disability, hospitalization and death benefits for the officers and employees of the authority;

(8) Make application directly to the proper federal, state, county and municipal officials and agencies, or to any other source, public or private, for loans, grants, guarantees or other financial assistance in aid of treatment works operated by it, and accept the same;

(9) Make studies and recommend to the appropriate commissions and legislative bodies of the creating and participating governmental entities, zoning changes in the area of any treatment works operated by the authority;

(10) Have control of its treatment works with the right and duty to establish and charge fees, rates and other charges, as set out herein, and collect revenues therefrom, not inconsistent with the rights of the holders of its bonds;

(11) Appoint an executive director, and confirm or reject the executive director’s appointments of a secretary, a treasurer, an auditor, legal counsel and a chief engineer; prescribe their duties and qualifications; and fix their compensation;

(12) Use in the performance of its functions the officers, agents, employees, services, property, facilities, records, equipment, rights and powers of the creating governmental entity or any participating governmental entity, with the consent of any such governmental entity, and subject to such terms and conditions as may be agreed upon;

(13) Enter such lands, waters or premises as in the judgment of the authority may be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this part, the authority to be liable for actual damage done;

(14) Designate an independent certified public accountant firm to do an annual post audit of all books, accounts and records of the authority and issue a public report thereon;

(15) Adopt by majority vote of the board the purchasing procedures for utility districts as defined in title 7, chapter 82, part 8;

(16) Adopt by majority vote of the board, regulations, including, but not limited to, requirements for the posting of performance bonds and maintenance bonds, governing the operation and maintenance of nontraditional sewage disposal systems. The phrase “nontraditional sewage disposal systems” does not include subsurface sewage disposal systems that are subject to the permitting requirements of part 4 of this chapter, nor to wastewater collection and disposal systems that are owned or operated by a governmental entity. The Water Quality Control Act, compiled in title 69, chapter 3, and regulations adopted thereunder, shall prevail over any such regulations of an authority in the event of a conflict; provided, that the authority may adopt regulations that are more stringent than the Water Quality Control Act and regulations promulgated thereunder, if a copy of such regulations is filed with the department;
(17) Promulgate rules for the installation and maintenance of grease interceptors, the regulation of sewer discharges from industrial facilities, and the inspection and maintenance of private or public service laterals;

(18) Promulgate rules that impose on a customer base, region, neighborhood, basin, or area an obligation on customers, occupants, or property owners to inspect their own respective service laterals and make necessary repairs. The authority may apply specific requirements on one (1) customer base, region, neighborhood, or basin at a time due to environmental concerns, the need for repairs, internal budgeting, scheduling, and limited resources of the authority necessitating the authority to focus on one (1) area at a time;

(19)(A) Promulgate rules that impose penalties for failure to comply with the authority’s rules, not to exceed:
   (i) Five (5) times the fees avoided; or
   (ii) Three (3) times the cost of cleanup, repair, enforcement, and damages, including costs incurred by the authority to make repairs or perform other work necessitated by the failure of a property owner to fulfill its obligations under applicable laws or the authority’s rules. For purposes of this subdivision (a)(19)(A)(ii), a property owner’s obligations under applicable laws or the authority’s rules includes, but is not limited to, the obligations to maintain service laterals and comply with regulations for controlling fats, oils, and grease;
   (B) Promulgate rules that authorize shutting off water and sewage usage until a property owner or occupant complies with the authority’s rules or pays any penalties imposed by the authority. The authority may impose a penalty against the owner or occupant of a property but shall not impose a penalty against an owner or occupant of property for a violation caused by a previous owner or occupant of the property; and

(20) Promulgate any other rules necessary to effectuate the purposes of this part, or to comply with the requirements of rules of the department of environment and conservation, regulations of the United States environmental protection agency, or consent decrees.

(b) All personnel employed by the board of commissioners of any water and wastewater authority under this chapter, including, but not limited to, the commissioners themselves, are prohibited from receiving any money or other goods or services of value of any sort as a result of any agreement, contractual or otherwise, for the installation of water and wastewater service within the bounds of the district; and further, those persons are also prohibited from receiving any moneys or other goods or services of value of any sort as a result of any agreement, contractual or otherwise, for the sale of any materials to be installed within the bounds of the district as water and wastewater service.

(c) Any authority created pursuant to this part may notify the appropriate permitting department when water and wastewater services provided to a business currently permitted pursuant to the Tennessee Retail Food Safety Act, compiled in title 53, chapter 8, part 2, or the Tennessee Food Safety Act, compiled in chapter 14, part 7 of this title, are discontinued for a violation of the authority’s rules, regulations, or policies. This subsection (c) shall apply to all counties in which an authority has been created as of July 1, 2016.

(d) No municipality or county government entity within the service area of a sewer authority created under this title may issue:
   (1) A building permit or a demolition permit prior to a sewer permit being
issued by the sewer authority, or
(2) A certificate of occupancy prior to a sewer permit being finalized by the sewer authority.


(a) The authority may fix the price or charges for its water and waste treatment services rendered to users within and without the service area of the authority; provided, that the rates charged must be uniform for the same class of customers or service and may represent the equitable or proportionate share of treatment costs of such class of customers or service.

(b) In classifying customers served or service furnished by such system of sewerage or water, the authority may, in its discretion, consider any or all of the following factors:

(1) The difference in cost of service to the various customers;
(2) The location of the various customers within and without the service area of the authority;
(3) The difference in cost of maintenance, operation, repair and replacement of the various parts of the system;
(4) The different character of the service furnished various customers;
(5) The quantity and quality of the sewage delivered and the time of its delivery;
(6) Capital contributions made to the system, including, but not limited to, assessments; and
(7) Any other matters which present a reasonable difference as a ground for distinction.

(c)(1) As used in this subsection (c):

(A) “Sewer” means waste water collection and/or treatment; and
(B) “Sewer service charges” includes all moneys properly charged to sewer service customers and owners of properties receiving sewer service.

(2)(A) The board may enter into contracts with any public or private corporation providing sewer services within the jurisdiction, or with any utility district or municipal utilities board or commission operating a water system within the jurisdiction of the authority, for the collection of sewer charges; and the authority, or any public corporation, utility district or municipal utilities board or commission so contracting with the authority or contracting directly with any public or private corporation providing sewer services within the jurisdiction, is authorized and empowered:

(i) To meter, bill and collect sewer service charges as an added designated item on its water service bills, or otherwise;
(ii) To discontinue water service to sewer users who fail or refuse to pay sewer service charges;
(iii) Not to accept payment of water service charges from any customer without receiving at the same time payment of any sewer service charges owed by such customer; and
(iv) Not to reestablish water service for any customer until such time as all past due sewer service charges owed by such customer have been paid.

(B) Such public corporation, utility district or municipal utilities board or commission is authorized to perform all acts and discharge all obliga-
tions required by the provisions of any such contract or contracts.

(d) The rates, prices, or charges for water, wastewater, and reuse or recycled wastewater may be flat rate, proportional to usage, or a combination thereof.

(e)(1)(A) Any person aggrieved by an appealable action of the board, or the board’s officers or employees, may appeal the action by filing a written notice of the challenged action stating:

(i) The action being appealed;
(ii) The date of the appealed action;
(iii) The manner in which the person is aggrieved;
(iv) Each factual or legal basis for the appeal; and
(v) The relief sought.

(B) A notice of appeal shall be dated and signed by the appellant and shall include the appellant’s mailing address and telephone number, and, if available, the appellant’s electronic mail address.

(C) A notice of appeal shall be filed with the authority’s executive director, or the executive director’s designee, within fifteen (15) days immediately following the date of the action being challenged in the notice.

(D) The authority shall establish rules and procedures governing the method for consideration of appeals filed pursuant to this subsection (e). The authority shall make copies of the rules and procedures available to their customers and post a copy of their rules and procedures at the authority’s principal office and on the authority’s web site.

(E) The authority shall determine all factual and legal issues raised in an appeal and shall state in writing to the aggrieved person the reasons for its decision.

(2) Any judicial review of the disposition of an appeal shall be by common law certiorari filed in a court of competent jurisdiction in the county where the authority’s principal office is located. No change in the authority’s fees, rates, charges, penalties, or deposits shall be stayed unless the plaintiff posts an adequate bond sufficient to compensate the authority for any losses incurred as a result of the stay.

(3) As used in this subsection (e), “appealable action”:

(A) Means:

(i) An action relating to the authority’s duty to establish, charge, administer, and collect fees, rates, charges, penalties, and deposits; and
(ii) Other decisions based on the authority’s rules and procedures that the authority designates as appealable actions; and

(B) Does not include any action relating to the issuance of bonds or debt, any civil service plan, or any other action not identified in subdivision (e)(3)(A).

(4) This part shall not authorize or permit any class action lawsuits against any authority, except as to holders of the authority’s bonds under § 68-221-611.

(5) This part shall not grant a private right of action, except as to holders of the authority’s bonds under § 68-221-611.

(6) The procedures established pursuant to this subsection (e) shall constitute the exclusive method of review of actions of the board and the board’s officers and employees, except as to holders of the authority’s bonds under § 68-221-611 and employees in a civil service plan under § 68-221-613.
68-221-619. [Repealed.]

68-221-620. Payment restriction — Written acknowledgment for provision of services — Deposit and attorney fees — Applicability of section.

(a)(1) An authority shall not require a property owner who leases residential property, the property owner’s agent, or a subsequent tenant of the property to pay or to guarantee the payment of charges, penalties, or other fees owed to the authority that were incurred by a former tenant of such property owner or agent.

(2) The payment restriction in subdivision (a)(1) shall only apply from September 1, 2016, to December 31, 2016.

(b)(1) An authority shall create a written acknowledgement for the provision of services, to be made available to a property owner who leases residential property or the property owner’s agent and to be completed by a tenant at the time the tenant enters into or renews a residential rental agreement. The written acknowledgement shall be used by the authority in the collection of all charges, penalties, or other fees owed to the authority by the tenant, and shall require the tenant to supply the following information:

(A) The name, social security number, telephone number, driver license number, electronic mail address, and employer, as applicable, of the tenant entering into or renewing a residential rental agreement with the property owner or property owner’s agent; and

(B) Any other information the authority deems reasonably necessary for the collection of such charges, penalties, or other fees owed to the authority by the tenant.

(2)(A) The property owner or the property owner’s agent shall submit a copy of the written acknowledgement to the authority within one (1) business day of the completion of the written acknowledgement by the tenant.

(B) Upon the submission of the written acknowledgement by a property owner or a property owner’s agent to the authority, the authority shall not recover from the property owner, property owner’s agent, or subsequent tenant of the property any delinquent charges, penalties, or other fees incurred by the tenant.

(3) The authority shall confirm in writing the receipt of the tenant’s written acknowledgement to the property owner or the property owner’s agent within two (2) business days of receiving the acknowledgement from the property owner or the property owner’s agent, at which time the acknowledgement shall be deemed a properly executed contract.

(4)(A) A property owner or property owner’s agent may refuse to enter into or renew a residential rental agreement with a prospective tenant who fails to provide the information required under subdivision (b)(1).

(B) If a property owner or property owner’s agent enters into or renews a residential rental agreement with a tenant who fails to provide the information required under subdivision (b)(1), then the property owner or property owner’s agent shall be liable to the authority for any delinquent charges, penalties, and other fees incurred by the tenant.

(c) A property owner or property owner’s agent acting pursuant to this section shall not be liable for the release of information contained in a contract
executed pursuant to subdivision (b)(3), or the unintentional release of such information to a third party; nor shall an authority be liable for the release of the information for collection purposes.

(d) In addition to the process prescribed pursuant to subsection (b), and notwithstanding any provision of this part to the contrary, an authority may require:

1. A deposit of up to three (3) months of the average monthly water and wastewater fee, as determined by an authority, to be included as part of the tenant’s first monthly billing statement; and
2. The recovery of reasonable attorney fees against the tenant to the contract for the collection of charges, penalties, or other fees owed to the authority.

(e) This section shall only apply to residential rental agreements that do not utilize submetering or prorated billing by an allocation formula for the leased residential property in counties having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census.

68-221-709. Fluoride levels.

(a) If the quarterly analysis of a water sample from a public water system by a certified laboratory confirms that the level of fluoride in the sample exceeds one and one-half milligrams per liter (1.5 mg/L), the public water system from which the sample was taken must:

1. Obtain laboratory analysis of water samples monthly for fluoride levels; and
2. Notify all of its customers that a water sample tested exceeded one and one-half milligrams per liter (1.5 mg/L) of fluoride in a manner established by the department.

(b) Once the monthly analysis of water samples for fluoride conducted pursuant to subdivision (a)(1) confirms that the fluoride level in samples is less than one and one-half milligrams per liter (1.5 mg/L) for three (3) consecutive months, the public water system may resume quarterly laboratory analysis for fluoride.

68-221-720. Lead free requirements — Notice — Exceptions.

(a) All pipes, pipe or plumbing fittings or fixtures, solder, or flux that is used in the installation or repair of any public water system shall be lead free; provided, that this subsection (a) shall not apply to lead joints necessary for the repair of cast iron pipes.

(b) All pipes, pipe or plumbing fittings or fixtures, solder, or flux that is used in the installation or repair of any plumbing, in a residential or nonresidential facility, which provides water for human consumption and is connected to a public water system, shall be lead free.

(c) Subsections (a) and (b) shall not apply to:

1. Pipes, pipe or plumbing fittings or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or
2. Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, fire hydrants, service saddles, or water distribution main
gate valves that are two inches (2") in diameter or larger.

(d)(1) No later than twenty-four (24) hours after a public water system confirms that the lead and copper 90th percentile lead action level, according to the federal Safe Drinking Water Act (42 U.S.C. § 300f et seq.), has been exceeded, the public water system shall notify the commissioner. The commissioner shall direct the public water system to conduct appropriate follow-up actions in accordance with state and federal drinking water rule requirements.

(2) No later than seventy-two (72) hours after a public water system confirms that any individual lead monitoring result is above the lead action level, according to the federal Safe Drinking Water Act, the public water system shall provide notification to the customer or residence where the sample was collected. No later than seventy-two (72) hours after the public water system confirms that the lead and copper 90th percentile lead action level has been exceeded, the public water system shall provide public notification to all customers where such exceedance results from the following:

(A) The lead content in the construction materials of the public water distribution system; or

(B) Corrosivity of the water supply sufficient to cause leaching of lead.

(3)(A) The notice required by this subsection (d) shall be provided in such manner, form, and frequency as may be reasonably required by the commissioner.

(B) Notice under this subsection (d) shall be provided, even if there has been no violation of any drinking water regulation of the state.

(4) Notice under this subsection (d) shall provide a clear and readily understandable explanation of the following:

(A) The potential sources of lead in the drinking water;

(B) Any potential adverse health effects;

(C) Any reasonably available methods of mitigating known or potential lead content in drinking water;

(D) Any steps the public water system is taking to mitigate lead content in drinking water; and

(E) The necessity for seeking alternative water supplies, if any.

(5)(A) If a public water system fails to notify persons that may be affected by lead contamination as required by subdivision (d)(2), the commissioner shall take appropriate action to ensure the public water system provides such notice within at least ten (10) days of such failure.

(B) After the commissioner ensures proper notice has occurred by the public water system, the commissioner shall provide direct technical assistance to and oversight of the public water system to ensure the public water system conducts appropriate follow-up testing and exercises the necessary treatment optimization and distribution system modifications, where necessary, to achieve compliance.

(e)(1) Any area where a local governmental unit has enacted or will enact ordinances, codes, regulations or governing policies not less stringent than subsection (b) is exempt from subsection (b).

(2) There is reserved to the state the right to administer or enforce any applicable ordinances, codes, regulations or governing policies of the local governmental unit, should it fail to properly administer or enforce such ordinances, codes, regulations or governing policies.

(f) Nothing herein shall be construed to require any public water system or
any residential or nonresidential facility to remove or replace any piping or plumbing, installed prior to March 18, 1988, except as may be necessary in making a repair.

68-221-1006. Prerequisites for and terms of loans.

(a) Loans shall be made only to local governments that:
   (1) Operate a wastewater facility that is on the department’s project priority ranking list established pursuant to § 68-221-804 and regulations thereunder;
   (2) In the opinion of the authority, demonstrate sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;
   (3) Pledge security as required by the authority for repayment of the loan;
   (4) Agree to adjust periodically fees and charges for services of the wastewater facility in order that loan payments and costs of the wastewater facility are timely paid; provided, however, upon determination that fees and charges are reasonable, the authority may in its discretion make a loan to a local government which is relying upon and using ad valorem taxes or other lawful sources of revenue, in addition to fees and charges, to pay timely loan payments and costs of the facility;
   (5) Certify to comply with a plan of operations approved by the department regarding the quality, compensation and number of facility personnel for the life of the loan;
   (6) Agree to maintain financial records in accordance with governmental accounting standards and to conduct an annual audit of the facility’s financial records in accordance with generally accepted governmental auditing standards and with minimum standards prescribed by the comptroller of the treasury, and to file such audit with the comptroller. In the event of the failure or refusal of the local government to have the audit prepared, then the comptroller of the treasury may appoint an accountant or direct the department of audit to prepare the audit at the expense of the local government; and
   (7) Provide such assurances as are reasonably requested by the authority and the department.
   (8) [Deleted by 2017 amendment.]

(b) Loans for public purpose projects relating to privately owned, non-point sources of pollution shall not be made to a local government which pledges its credit to secure such loan except upon the assent of three fourths (¾) of the votes cast in an election of the qualified voters of the local government.

(c) A local government may use the proceeds from a loan made from the fund to provide a local match for a federal (except for EPA Title II construction grants) or state wastewater facility grant.

(d) A loan shall be made for a period of time not to exceed thirty (30) years or the design life of the wastewater facility; however, loans made with funds governed by the Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., shall be for such period of time as provided in that act. For each loan, the authority shall determine the interest rate and the payment schedule for repayment of the loan.

(e) Loans shall be made only for items approved by the department.

(f) The requirements of this section with respect to “local governments” are
deemed satisfied when any one (1) of the entities jointly participating in the wastewater facility being funded pursuant to the loan agreement and qualifying as a local government as provided in § 68-221-1003(7) satisfies the requirement.

(g) The comptroller of the treasury, through the department of audit, shall be responsible for determining that any audit required in this chapter is prepared in accordance with generally accepted governmental auditing standards. The comptroller of the treasury is authorized to direct the department of audit to make an audit of financial review of the books and records of the local government.


(a)(1) A water and wastewater financing board is established in the office of the comptroller of the treasury to determine and ensure the financial integrity of certain water systems and wastewater facilities.

(2) The board is charged with the responsibility of furthering the legislative objective of self-supporting water systems and wastewater facilities in this state and shall be deemed to be acting for the public welfare in carrying out §§ 68-221-1007 — 68-221-1012.

(b) Such board shall be composed of the following members:

(1) The comptroller of the treasury, or the comptroller’s designee, who shall serve as chair;

(2) The commissioner, or the commissioner’s designee;

(3) One (1) member, appointed by the governor, who shall represent the municipalities of the state. The governor shall consult with the president of the Tennessee municipal league to determine a qualified person to fill this post;

(4) One (1) member, appointed by the governor, who shall represent utility districts in the state. The governor shall consult with the president of the Tennessee Association of Utility Districts to determine a qualified person to fill this post;

(5) One (1) member, appointed by the governor, who shall represent the environmental interests of the state. The governor shall consult with the president of the Tennessee environmental council to determine a qualified person to fill this post;

(6) One (1) member appointed by the governor, who shall represent the manufacturing interests in the state. The governor shall consult with the president of the Tennessee Association of Business to determine a qualified person to fill this post;

(7) One (1) member, appointed by the governor, who shall represent the minority citizens of the state. Such member shall have experience in governmental finance and shall not otherwise be a state employee;

(8) One (1) member appointed by the governor, who is an active employee of a municipal water utility and one (1) member who is an active employee of a water utility district. The governor shall consult with the president of the Tennessee Association of Utility Districts to determine qualified persons to fill these appointments.
Board members shall serve for a three-year term except as designated herein, and all appointments shall expire on June 30 of the appropriate year. A board member shall continue to serve, however, until a successor has been appointed, or until the board member has been reappointed.

(2) Appointments to succeed a board member who is unable to serve such board member’s full term shall be for the remainder of that term.

(3) Board members may be reappointed, but they do not succeed themselves automatically.

(4) Appointments to the board for the remainder of an unexpired term and reappointments shall be made in the same manner as under subsection (b).

(d) Each member of the board shall be entitled to receive reimbursement for such member’s traveling and other necessary expenses actually incurred while engaged in the performance of any official duties when so authorized by the board, but such expenses shall be made in accordance with the comprehensive state travel regulations duly promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(e) A majority of the board shall constitute a quorum and the concurrence of a majority of those present and voting in any matter shall be required for a determination of matters within its jurisdiction.

(f) No board member may participate in making a decision in any case involving a local government or water system or wastewater facility in which the board member has a direct financial interest, including a contract of employment.

(g) The board shall keep complete and accurate records of the proceedings of all their meetings. All such records shall be kept on file in the office of the comptroller and open to public inspection.

(h) The comptroller shall designate a staff person to serve as the technical secretary to the board. In that capacity, the designee shall report the proceedings of the board and perform such other duties as the board may require.

(i) For the purposes of this part, “water systems and wastewater facilities” includes:

(A) Any county, metropolitan government, or incorporated town or city empowered to provide water or wastewater services; and

(B) Any treatment authority, created pursuant to part 6 or part 13 of this chapter, that operates a water or wastewater facility. The treatment authorities shall file or cause to be filed with the comptroller independently prepared audited financial statements.

(j) The entities listed in subsection (i) are subject to the jurisdiction of the water and wastewater financing board in accordance with this chapter.

68-221-1010. Facilities with earnings or operating deficit, or operating in default.

(a)(1) Within sixty (60) days from the time that an audit of a water system or wastewater facility is filed with the comptroller of the treasury, the comptroller of the treasury shall file with the board the audited annual financial report of any water system or wastewater facility that has a deficit total net position in any one (1) year, has a negative change in net position for two (2) consecutive years, or is currently in default on any of its debt instruments. For purposes of this subdivision (a)(1), a “change in net position” means total revenues less all grants, capital contributions, and
expenses.

(2) Notwithstanding any other law to the contrary, a government joint
venture that supplies or treats water or wastewater for wholesale use only
to other governments shall not fall under the jurisdiction of the water and
wastewater financing board for the purpose of reporting negative change in
the net position annually, but must be referred to the board if the govern-
ment joint venture is in a deficit or default position as provided herein.

(b)(1) Within sixty (60) days from the receipt of the audited annual financial
report filed by the comptroller of the treasury, the board shall schedule a
hearing to determine whether the water system or wastewater facility
described in the report is likely to continue in a deficit position. In reaching
its determination, the board shall consider current user rates charged by the
water system or wastewater facility, the size of the facility and the local
government served by it, the quality of the facility’s operation and manage-
ment, and other relevant criteria.

(2) Upon a determination that the water system or wastewater facility
is likely to remain in a deficit position, the board may order the management
of the water system or wastewater facility to adopt and maintain user rate
structures necessary to:

(A) Fund operation, maintenance, principal and interest obligations
and adequate depreciation to recover the cost of the water system or
wastewater facility over its useful life;

(B) Liquidate in an orderly fashion any deficit in total net position; and

(C) Cure a default on any indebtedness of the water system and
wastewater facility.

(3) Any such order shall become final and not subject to review unless the
parties named therein request by written petition a hearing before the
board, as provided in §§ 68-221-1007 — 68-221-1013, no later than thirty
(30) days after the date such order is served. Any hearing or rehearing
provided by §§ 68-221-1007 — 68-221-1013 shall be brought pursuant to the
Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part
3. Such hearing may be conducted by the board at a regular or special
meeting by any member or panel of members as designated by the chair to
act on its behalf, or the chair may designate an administrative judge who
shall have the power and authority to conduct hearings in the name of the
board to issue initial orders pursuant to the Uniform Administrative
Procedures Act.

(c) In the event a water system and wastewater facility fails to adopt user
rate structures pursuant to a final order of the board, the board may petition
the chancery court in a jurisdiction in which the water system and wastewater
facility is situated or in the chancery court of Davidson County to require the
adoption of the user rate structures ordered by the board or to obtain other
remedial action, which, in the discretion of the court, may be required to cause
the water system and wastewater facility to be operated in a financially
self-sufficient manner.

(d)(1) Within sixty (60) days from the time that an audit of a water system
is filed with the comptroller of the treasury, the comptroller of the treasury
shall file with the board the audited annual financial report of any water
system whose water loss as reported in the audit is excessive as established
by rules promulgated by the board. Failure of the water system to include
the schedule required in this section constitutes excessive water loss and the
water system shall be referred to the water and wastewater financing board.

(2) In the event a water system fails to take the appropriate actions required by the board to reduce the water loss to an acceptable level pursuant to § 68-221-1009(a)(7), the board may petition the chancery court in a jurisdiction in which the water system is operating to require the water system to take such actions.

(3) By February 1 of each year, the comptroller of the treasury shall provide a written report to the speaker of the house of representatives and the speaker of the senate listing the average annual water loss contained in the annual audit for those utility systems described in § 68-221-1007.

68-221-1015. Part supplemental — Loan agreements governed by this part.

(a) This part is in addition and supplemental to any other law providing for the financing of water systems and wastewater facilities of local governments, and shall not be deemed to amend or repeal any other law.

(b) No proceedings by a local government shall be required for loan agreements hereunder except such as are provided by this part, notwithstanding any law to the contrary.

(c) No requirements or restraints applicable to borrowing by local governments contained in any other law shall be applicable to loans under this part.

(d) The board may defer to the utility management review board created by § 7-82-701 in regard to matters concerning utility districts.


(a)(1) The governing body of the authority shall be a board of commissioners appointed by the executive officer of the creating governmental entity and approved by its governing body.

(2) The board of commissioners shall include a person of good standing and reputation.

(b) If there are one (1) or more participating governmental entities, one (1) member of the board shall be appointed by the executive officer of each participating governmental entity and approved by its governing body, giving the board a total membership equal to the number of participating governmental entities.

(c) Commissioners first appointed to the board shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively, but thereafter each commissioner shall be appointed for a term of five (5) years. If a board has more than five (5) members, each additional member shall be appointed for a term of five (5) years. A commissioner may be reappointed at the end of that commissioner’s term.

(d)(1) Any vacancy by reason of nonresidence, incapacity, resignation or death shall be filled in like manner for the unexpired term.

(2) A commissioner’s term shall continue until the appointment and qualification of that commissioner’s successor.

(3) A commissioner may be removed from office by a two-thirds (⅔) vote of the governing body of the governmental entity that approved the commissioner’s appointment, but only after notice of the cause of the removal is served on the commissioner, and only after the commissioner is granted an
opportunity for a public hearing on the cause.

(e)(1) The board shall elect from among its members a chair and vice chair, each of whom shall continue to be voting members, and shall adopt its own bylaws and rules of procedure.

(2) The presence of commissioners having a majority of the voting strength of the commissioners shall constitute a quorum for the transaction of business.

(3) Except as expressly otherwise specified in this part, all powers granted in this part to an authority shall be exercised by the board.

(4) Commissioners may receive compensation and shall be reimbursed for necessary expenses incurred in the performance of their official duties.

(5) An authority shall be subject to the jurisdiction of the water and wastewater financing board in accordance with this chapter; provided, however, that the environmental statutes in titles 68 and 69 currently administered by the department of environment and conservation shall apply to the activities of the authority in the same manner as those statutes would apply to the activities of any local government.

(f)(1) All members of the board shall, within one (1) year of initial appointment or election to the board of commissioners or within one (1) year of reappointment or reelection to the board of commissioners, attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(3).

(2) In each continuing education period after the initial training and continuing education required by subdivision (f)(1), a board member shall attend a minimum of twelve (12) hours of training and continuing education in one (1) or more of the subjects listed in subdivision (f)(3). For the purposes of this subsection (f), “continuing education period” means a period of three (3) years beginning January 1 after the calendar year in which a municipal utility board commissioner completes the training and continuing education requirements set forth in subdivision (f)(1) and each succeeding three-year period thereafter.

(3) The subjects for the training and continuing education required by this subsection (f) shall include, but not be limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the members of the board of commissioners of an authority.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for board members covering the subjects set forth in subdivision (f)(3) to be submitted to the comptroller of the treasury for review and approval prior to use. The comptroller shall file a copy of approved training and continuing education curriculum with the water and wastewater financing board. Changes and updates to the curriculum shall be submitted to the comptroller for approval prior to use. Any training and continuing education curriculum approved by the comptroller shall be updated every three (3) years and resubmitted to the comptroller for review and approval.

(5) For purposes of this subsection (f), a board member may request a training and continuing education extension of up to six (6) months from the comptroller of the treasury or the comptroller’s designee. The request shall only be granted upon a reasonable showing of substantial compliance with this subsection (f). If the extension is granted, the board member must
complete any additional required training hours necessary to achieve full compliance for only the relevant continuing education period within the extension period. The board member shall file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

(g) If any member of the board fails to meet the training and continuing education requirements set forth in subsection (f) before the end of the continuing education period or before the end of any extension approved by the comptroller of the treasury or the comptroller's designee, then such member shall not be eligible for reappointment or reelection to another term of office.

69-3-103. Part definitions. [Effective until March 1, 2018. See the version effective on March 1, 2018.]

As used in this part, unless the context otherwise requires:

(1) “Administrator” means the administrator, or head by whatever name, of the United States environmental protection agency;

(2) “Areawide waste treatment management plan” means a plan that has been approved by the administrator pursuant to § 208 of the Federal Water Pollution Control Act, Public Law 92-500, codified in 33 U.S.C. § 1288;

(3) “Board” means the board of water quality, oil and gas, created in § 69-3-104;

(4) “Boat” means any vessel or watercraft moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any vessel or structure floating upon the water whether or not capable of self-locomotion, including, but not limited to, houseboats, barges, docks, and similar floating objects;

(5) “Commissioner” means the commissioner of environment and conservation or the commissioner’s duly authorized representative and, in the event of the commissioner’s absence or a vacancy in the office of commissioner, the deputy commissioner;

(6) “Concentrated animal feeding operation” means such term as it is defined by the environmental protection agency; however, the department may, by permit requirements or by regulations adopted by the board in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, adopt a more stringent definition of “concentrated animal feeding operation”;

(7) “Construction” means any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(8) “Department” means the department of environment and conservation;

(9) “Director” means the director of the division of water management of the department;

(10) “Discharge of a pollutant,” “discharge of pollutants,” and “discharge,” when used without qualification, each refer to the addition of pollutants to waters from a source;

(11) “Division” means the division of water management;

(12) “Effluent limitation” means any restriction, established by the board or the commissioner, on quantities, rates and concentrations of chemical, physical, biological, and other constituents that are discharged into waters
or adjacent to waters;

(13) “Forestry best management practices” means those land and water resource conservation measures that prevent, limit, or eliminate water pollution for forest resource management purposes, as provided in rules promulgated in this part in accordance with § 11-4-301(d)(18). Until those rules are effective, “forestry best management practices” will be those that have been developed by the division of forestry of the department of agriculture. The commissioner of agriculture shall specifically identify these interim forestry best management practices prior to September 1, 2000;

(14) “Industrial user” means those industries identified in the standard industrial classification manual, bureau of the budget, 1967, as amended and supplemented, under the category “Division D — Manufacturing” and such other classes of significant waste producers as the board or commissioner deems appropriate;

(15) “Industrial wastes” means any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource;

(16) “Local administrative officer” means the chief administrative officer of a pretreatment agency that has adopted and implemented an approved pretreatment program pursuant to this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(17) “Local hearing authority” means the administrative board created pursuant to an approved pretreatment program that is responsible for the administration and enforcement of that program and §§ 69-3-123 — 69-3-129;

(18) “Member” means a member of the board of water quality, oil and gas;

(19) “Municipal separate storm sewer system” means a municipal separate storm sewer system as defined in the Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., and the rules promulgated thereunder;

(20) “New source” means any source, the construction of which is commenced after the publication of state or federal regulations prescribing a standard of performance applicable to such source;

(21) “Obligate lotic aquatic organisms” means organisms that require flowing water for all or almost all of the aquatic phase of their life cycles;

(22) “Operator” as used in the context of silvicultural activities, means any person who conducts or exercises control over any silvicultural activities; provided, however, that the term “operator” does not include an owner if the silvicultural activities are being conducted by an independent contractor;

(23) “Other wastes” means any and all other substances or forms of energy, with the exception of sewage and industrial wastes, including, but not limited to, decayed wood, sand, garbage, silt, municipal refuse, sawdust, shavings, bark, lime, ashes, offal, oil, hazardous materials, tar, sludge, or other petroleum byproducts, radioactive material, chemicals, heated substances, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, biological materials, wrecked and discarded equipment, rock, and cellar dirt;

(24) “Owner” as used in the context of silvicultural activities, means any person or persons that own or lease land on which silvicultural activities occur or own timber on land on which silvicultural activities occur;
(25) “Owner or operator” means any person who owns, leases, operates, controls, or supervises a source;
(26) “Person” means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any other state or country;
(27) “Pollutant” means sewage, industrial wastes, or other wastes;
(28) “Pollution” means such alteration of the physical, chemical, biological, bacteriological, or radiological properties of the waters of this state, including, but not limited to, changes in temperature, taste, color, turbidity, or odor of the waters that will:
  (A) Result or will likely result in harm, potential harm or detriment to the public health, safety, or welfare;
  (B) Result or will likely result in harm, potential harm or detriment to the health of animals, birds, fish, or aquatic life;
  (C) Render or will likely render the waters substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other reasonable uses; or
  (D) Leave or likely leave the waters in such condition as to violate any standards of water quality established by the board;
(29) “Pretreatment agency” means the owner of a publicly owned treatment works permitted pursuant to this part that is required by its permit to adopt and enforce an approved pretreatment program that complies with this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;
(30) “Pretreatment program” means the rules, regulations, and/or ordinances of a pretreatment agency regulating the discharge and treatment of industrial waste that complies with this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;
(31) “Qualified local program” means a municipal separate storm sewer system that has been approved as such by the department pursuant to this part;
(32) “Regional administrator” means the regional administrator of the United States environmental protection agency whose region includes Tennessee, or any person succeeding to the duties of this official;
(33) “Schedules of compliance” means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, condition of a permit, other limitation, prohibition, standard, or regulation;
(34) “Sewage” means water-carried waste or discharges from human beings or animals, from residences, public or private buildings, or industrial establishments, or boats, together with such other wastes and ground, surface, storm, or other water as may be present;
(35) “Sewerage system” means the conduits, sewers, and all devices and appurtenances by means of which sewage and other waste is collected, pumped, treated, or disposed;
(36) “Silvicultural activities” means those forest management activities associated with the harvesting of timber and including, without limitation, the construction of roads and trails;
(37) “Source” means any activity, operation, construction, building, structure, facility, or installation from which there is or may be the discharge of
pollutants;

(38) “Standard of performance” means a standard for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction that the commissioner determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants;

(39) “Stop work order” means an order issued by the commissioner of environment and conservation requiring the operator to immediately cease part or all silvicultural activities;

(40) “Stream” means a surface water that is not a wet weather conveyance;

(41) “Toxic effluent limitation” means an effluent limitation on those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of available information, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring;

(42) “Variance” means an authorization issued to a person by the commissioner that would allow that person to cause a water quality standard to be exceeded for a limited time period without changing the standard;

(43) “Watercourse” means a man-made or natural hydrologic feature with a defined linear channel that discretely conveys flowing water, as opposed to sheet-flow;

(44) “Waters” means any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters; and

(45) “Wet weather conveyance” means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

(A) That flow only in direct response to precipitation runoff in their immediate locality;

(B) Whose channels are at all times above the groundwater table;

(C) That are not suitable for drinking water supplies; and

(D) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

69-3-103. Part definitions. [Effective on March 1, 2018. See the version effective until March 1, 2018.]

As used in this part, unless the context otherwise requires:

(1) “Administrator” means the administrator, or head by whatever name, of the United States environmental protection agency;
(2) “Areawide waste treatment management plan” means a plan that has been approved by the administrator pursuant to § 208 of the Federal Water Pollution Control Act, Public Law 92-500, codified in 33 U.S.C. § 1288;

(3) “Board” means the board of water quality, oil and gas, created in § 69-3-104;

(4) “Boat” means any vessel or watercraft moved by oars, paddles, sails or other power mechanism, inboard or outboard, or any vessel or structure floating upon the water whether or not capable of self-locomotion, including, but not limited to, houseboats, barges, docks, and similar floating objects;

(5) “Commissioner” means the commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner;

(6) “Concentrated animal feeding operation” means such term as it is defined by the environmental protection agency;

(7) “Construction” means any placement, assembly, or installation of facilities or equipment, including contractual obligations to purchase such facilities or equipment, at the premises where such equipment will be used, including preparation work at such premises;

(8) “Department” means the department of environment and conservation;

(9) “Director” means the director of the division of water management of the department;

(10) “Discharge of a pollutant,” “discharge of pollutants,” and “discharge,” when used without qualification, each refer to the addition of pollutants to waters from a source;

(11) “Division” means the division of water management;

(12) “Effluent limitation” means any restriction, established by the board or the commissioner, on quantities, rates and concentrations of chemical, physical, biological, and other constituents that are discharged into waters or adjacent to waters;

(13) “Forestry best management practices” means those land and water resource conservation measures that prevent, limit, or eliminate water pollution for forest resource management purposes, as provided in rules promulgated in this part in accordance with § 11-4-301(d)(18). Until those rules are effective, “forestry best management practices” will be those that have been developed by the division of forestry of the department of agriculture. The commissioner of agriculture shall specifically identify these interim forestry best management practices prior to September 1, 2000;

(14) “Industrial user” means those industries identified in the standard industrial classification manual, bureau of the budget, 1967, as amended and supplemented, under the category “Division D — Manufacturing” and such other classes of significant waste producers as the board or commissioner deems appropriate;

(15) “Industrial wastes” means any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource;

(16) “Local administrative officer” means the chief administrative officer of a pretreatment agency that has adopted and implemented an approved pretreatment program pursuant to this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;
“Local hearing authority” means the administrative board created pursuant to an approved pretreatment program that is responsible for the administration and enforcement of that program and §§ 69-3-123 — 69-3-129;

“Member” means a member of the board of water quality, oil and gas;

“Municipal separate storm sewer system” means a municipal separate storm sewer system as defined in the Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., and the rules promulgated thereunder;

“New source” means any source, the construction of which is commenced after the publication of state or federal regulations prescribing a standard of performance applicable to such source;

“Obligate lotic aquatic organisms” means organisms that require flowing water for all or almost all of the aquatic phase of their life cycles;

“Operator” as used in the context of silvicultural activities, means any person who conducts or exercises control over any silvicultural activities; provided, however, that the term “operator” does not include an owner if the silvicultural activities are being conducted by an independent contractor;

“Other wastes” means any and all other substances or forms of energy, with the exception of sewage and industrial wastes, including, but not limited to, decayed wood, sand, garbage, silt, municipal refuse, sawdust, shavings, bark, lime, ashes, offal, oil, hazardous materials, tar, sludge, or other petroleum byproducts, radioactive material, chemicals, heated substances, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, biological materials, wrecked and discarded equipment, rock, and cellar dirt;

“Owner” as used in the context of silvicultural activities, means any person or persons that own or lease land on which silvicultural activities occur or own timber on land on which silvicultural activities occur;

“Operator or owner” means any person who owns, leases, operates, controls, or supervises a source;

“Person” means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any other state or country;

“Pollutant” means sewage, industrial wastes, or other wastes;

“Pollution” means such alteration of the physical, chemical, biological, bacteriological, or radiological properties of the waters of this state, including, but not limited to, changes in temperature, taste, color, turbidity, or odor of the waters that will:

(A) Result or will likely result in harm, potential harm or detriment to the public health, safety, or welfare;

(B) Result or will likely result in harm, potential harm or detriment to the health of animals, birds, fish, or aquatic life;

(C) Render or will likely render the waters substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other reasonable uses; or

(D) Leave or likely leave the waters in such condition as to violate any standards of water quality established by the board;

“Pretreatment agency” means the owner of a publicly owned treatment works permitted pursuant to this part that is required by its permit to adopt and enforce an approved pretreatment program that complies with this part
and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(30) “Pretreatment program” means the rules, regulations, and/or ordinances of a pretreatment agency regulating the discharge and treatment of industrial waste that complies with this part and 33 U.S.C. § 1251 et seq. and 40 CFR 403.1 et seq.;

(31) “Qualified local program” means a municipal separate storm sewer system that has been approved as such by the department pursuant to this part;

(32) “Regional administrator” means the regional administrator of the United States environmental protection agency whose region includes Tennessee, or any person succeeding to the duties of this official;

(33) “Schedules of compliance” means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, condition of a permit, other limitation, prohibition, standard, or regulation;

(34) “Sewage” means water-carried waste or discharges from human beings or animals, from residences, public or private buildings, or industrial establishments, or boats, together with such other wastes and ground, surface, storm, or other water as may be present;

(35) “Sewerage system” means the conduits, sewers, and all devices and appurtenances by means of which sewage and other waste is collected, pumped, treated, or disposed;

(36) “Silvicultural activities” means those forest management activities associated with the harvesting of timber and including, without limitation, the construction of roads and trails;

(37) “Source” means any activity, operation, construction, building, structure, facility, or installation from which there is or may be the discharge of pollutants;

(38) “Standard of performance” means a standard for the control of the discharge of pollutants that reflects the greatest degree of effluent reduction that the commissioner determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants;

(39) “Stop work order” means an order issued by the commissioner of environment and conservation requiring the operator to immediately cease part or all silvicultural activities;

(40) “Stream” means a surface water that is not a wet weather conveyance;

(41) “Toxic effluent limitation” means an effluent limitation on those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of available information, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring;

(42) “Variance” means an authorization issued to a person by the commissioner that would allow that person to cause a water quality standard to be exceeded for a limited time period without changing the standard;

(43) “Watercourse” means a man-made or natural hydrologic feature with a defined linear channel that discretely conveys flowing water, as opposed to
(44) “Waters” means any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters; and

(45) “Wet weather conveyance” means, notwithstanding any other law or rule to the contrary, man-made or natural watercourses, including natural watercourses that have been modified by channelization:

(A) That flow only in direct response to precipitation runoff in their immediate locality;
(B) Whose channels are at all times above the groundwater table;
(C) That are not suitable for drinking water supplies; and
(D) In which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months.

69-3-108. Permits. [Effective until March 1, 2018. See the version effective on March 1, 2018.]

(a) Every person who is or is planning to carry on any of the activities outlined in subsection (b), other than a person who discharges into a publicly owned treatment works or who is a domestic discharger into a privately owned treatment works, or who is regulated under a general permit as described in subsection (l), shall file an application for a permit with the commissioner or, when necessary, for modification of such person’s existing permit.

(b) It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

(1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state;
(2) The construction, installation, modification, or operation of any treatment works, or part thereof, or any extension or addition thereto;
(3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;
(4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;
(5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;
(6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;
(7) The construction, installation or operation of a concentrated animal feeding operation; provided, however, that only those operations that are
required under the federal Clean Water Act, compiled in 33 U.S.C. § 1251 et seq., to have a permit for concentrated animal feeding operations may be issued an national pollutant discharge elimination system (NPDES) permit;

(8) The discharge of sewage, industrial wastes, or other wastes into a well or a location where it is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances that do or may affect the waters of the state; or

(9) The diversion of water through a flume for the purpose of generation of electric power by a utility.

(c) Any person operating or planning to operate a sewerage system shall file an application with the commissioner for a permit or, when necessary, for modification of such person’s existing permit. Unless a person holds a valid permit, it is unlawful to operate a sewerage system.

(d) Nothing in this section shall be construed to require any person discharging into a septic tank connected only to a subsurface drainfield, or any person constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, except in a county having a population of not less than sixty thousand two hundred fifty (60,250) nor more than sixty thousand three hundred fifty (60,350), according to the 1970 federal census or any subsequent federal census, as defined and regulated by §§ 68-211-101 — 68-211-115, to secure a permit; provided, that the exemption provided in this subsection (d) shall not exempt such person from any other provision of this part; and provided further, that any such person who is exempt from obtaining a permit for constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, shall not thereafter be required to obtain such permit.

(e) Applicants for permits that would authorize a new or expanded waste-water discharge into surface waters shall include in the application consideration of alternatives, including, but not limited to, land application and beneficial reuse of the wastewater.

(f) With regard to permits for activities related to the surface mining of coal:

(1) No permit shall be issued that would allow removal of coal from the earth from its original location by surface mining methods or surface access points to underground mining within one hundred feet (100') of the ordinary high water mark of any stream or allow overburden or waste materials from removal of coal from the earth by surface mining of coal to be disposed of within one hundred feet (100') of the ordinary high water mark of a stream; provided, however, that a permit may be issued or renewed for stream crossings, including, but not limited to, rail crossings, utilities crossings, pipeline crossings, minor road crossings, for operations to improve the quality of stream segments previously disturbed by mining and for activities related to and incidental to the removal of coal from its original location, such as transportation, storage, coal preparation and processing, loading and shipping operations within one hundred feet (100') of the ordinary high water mark of a stream if necessary due to site specific conditions that do not cause the loss of stream function and do not cause a discharge of pollutants in violation of water quality criteria. Nothing in this subdivision (f)(1) shall apply to placement of material from coal preparation and processing plants;

(2) Without limiting the applicability of this section, if the commissioner determines that surface coal mining at a particular site will violate water quality standards because acid mine drainage from the site will not be amenable to treatment with proven technology both during the permit period or subsequent to completion of mining activities, the permit shall be
denied.

(g) The commissioner may grant permits authorizing the discharges or activities described in subsection (b), including, but not limited to, land application of wastewater, but in granting such permits shall impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to accomplish the purposes of this part, and as are not inconsistent with the regulations promulgated by the board. Under no circumstances shall the commissioner issue a permit for an activity that would cause a condition of pollution either by itself or in combination with others. In addition the permits shall include:

1. The most stringent effluent limitations and schedules of compliance, either promulgated by the board, required to implement any applicable water quality standards, necessary to comply with an areawide waste treatment plan, or necessary to comply with other state or federal laws or regulations;
2. A definite term, not to exceed five (5) years, for which the permit is valid. This term shall be subject to provisions for modification, revocation or suspension of the permit;
3. Monitoring, recording, reporting, and inspection requirements; and
4. In the case of permits authorizing discharges from publicly owned treatment works, terms and conditions requiring the permittee to enforce user and cost recovery charges, pretreatment standards, and toxic effluent limitations applicable to industrial users discharging into the treatment works.

(h) The commissioner may revoke, suspend, or modify any permit for cause, including:

1. Violation of any terms or conditions of the permit or of any provision of this part;
2. Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts; or
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(i) No permit under subsection (g) or (h) for the construction of any new outlet or for construction activities involved in the development of natural resources, for the construction of a new waste treatment system or for the modification or extension of an existing waste treatment system shall be issued by the commissioner until the plans have first been submitted to and approved by the commissioner. No such approval shall be construed as creating a presumption of correct operation nor as warranting by the commissioner that the approved facilities will reach the designated goals. If an environmental impact statement is required for any permit, the commissioner may require the applicant to pay for its preparation. Any such impact statement must also include and address economic and social impact.

(j) Any permit procedure or other action required by or undertaken in accordance with this section or part shall be conducted in accordance with title 13, chapter 18, when the permit or action involves a major energy project, as defined in § 13-18-102.

(k) Nothing in this section shall be construed to limit or circumscribe the authority of the commissioner to issue emergency orders as specified in § 69-3-109.

(l) Where the commissioner finds that a category of activities or discharges
would be appropriately regulated under a general permit, the commissioner
may issue such a permit. Any person conducting activities in the category
covered by a general permit shall not be required to file individual applications
for permits except as provided in specific requirements of the general permit.
Any person conducting activities covered under a general permit may be
required by the commissioner to file an application for any individual permit.

Upon the issuance of an individual permit to a person with a general permit,
the applicability of the general permit to that permitted activity or discharge
shall be terminated. Any person who holds an individual permit for an activity
or discharge covered under the provisions of a general permit may request that
the individual permit be revoked. Upon such revocation, the activity or
discharge shall become subject to the provisions of the general permit.

(m) Notwithstanding subsection (g), upon application by a person who
discharges into groundwaters of the state and who is subject to a permit issued
pursuant to the Hazardous Waste Management Act, compiled in title 68,
chapter 212, the commissioner may issue variances from the applicable water
quality standards, criteria, or classification for groundwater; provided, that:

(1) The waters to which the variance applies are not used as a current
source of drinking water and such use is not reasonably anticipated for the
term of the variance and a reasonable time thereafter;

(2) The applicant demonstrates that such discharges will not pose a
substantial present or potential hazard to human health or the environment
as defined in Tenn. Comp. R. & Reg. 1200-01-11-.06(6)(e)(2) (reserved) in
effect on April 1, 1988, and will not impair any actual, current uses other
than those affected by the variance;

(3) Variances will be effective for a specific term, not to exceed the
effective term of the permit;

(4) The variance is consistent with the Federal Water Pollution Control
Act, compiled in 33 U.S.C. § 1251 et seq., and the federal Safe Drinking
Water Act, compiled in 42 U.S.C. § 300f et seq.; and

(5) The variance provided for under this subsection (m) shall be applied
for and issued in accordance with procedures regarding the issuance of
permits as required by regulations issued under this chapter.

(n)(1) A chief administrative officer of a county highway department does
not violate this chapter by repairing or causing the repair of up to four
hundred feet (400') of highway or road in an emergency situation, if
immediate repairs are necessary to protect human safety and welfare, and if
such repairs comply with rules and regulations promulgated by the board
that regulate the manner in which the repairs are made. Such officer need
not obtain a permit prior to making such repairs under such circumstances.

(2) As soon as practicable, the chief administrative officer of a county
highway department shall notify the commissioner by telephone that an
emergency has arisen and that such chief administrative officer intends to
make repairs in response to such emergency. The giving of such notice shall
not be construed to authorize the commissioner to terminate such repairs.

(3) Within ten (10) days of the completion of any highway or road repair
made pursuant to this subsection (n), the chief administrative officer of the
county highway department ordering such repair shall notify the commis-
sioner, in writing, of the action taken and the nature of the emergency
necessitating such immediate repair.

(o) The following activities do not require a permit under this section:
(1) The removal of downed trees by dragging or winching and without grading or reshaping of the stream channel;
(2) The placement of downed trees on stream banks for erosion protection; and
(3) The planting of vegetation on stream banks.
(p) Unless the applicant agrees otherwise, when an individual landowner applies for a permit for debris removal or stream bank stabilization activities, the commissioner shall either issue or deny the permit or take action scheduling a public hearing on the application within sixty (60) days of receipt of a complete application; provided further, however, that the staff of the division will communicate orally or in writing to the applicant within fifteen (15) days of receipt of any such application.
(q)(1) The alteration of a wet weather conveyance, as defined in § 69-3-103, by any activity is permitted by this subsection (q) and shall require no notice or approval; provided, that it is done in accordance with all of the following conditions:
(A) The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife;
(B) Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area;
(C)(i) Sediment shall be prevented from entering other waters of the state;
(ii) Erosion and sediment controls shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer’s specifications and good engineering practices;
(iii) Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day;
(iv) Checkdams shall be utilized where runoff is concentrated. Clean rock, log, sandbag or straw bale checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants; and
(D) Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.
(2) There shall be no additional conditions upon a person’s activity within a wet weather conveyance. This subdivision (q)(2) does not apply to national pollutant discharge elimination system (NPDES) permits.
(r) A person desiring to alter a specific water of the state may request a determination from the commissioner that it is a wet weather conveyance and submit a report from a qualified hydrologic professional in support of the request. If the report contains all information that is required in rules
promulgated by the board, and in accordance with department procedures and 
guidance, and is certified by a qualified hydrologic professional to be true, 
accurate and complete and, if submitted after promulgation of the rules 
required by § 69-3-105(l), contains all information that is required in those 
rules, then the determination made in the report shall be presumed to be 
correct, unless the commissioner notifies the person, in writing, within thirty 
(30) days of submittal of the report, that the commissioner has affirmatively 
determined that there is a significant question about whether the water of the 
state in question is a stream or a wet weather conveyance and states the 
reasons for that determination. In that event, the commissioner must, within 
thirty (30) days following the initial notification, determine whether the water 
of the state in question is a stream or a wet weather conveyance and notify the 
person in writing of that decision and the reasons for that determination. A 
person may appeal a determination by the commissioner that the specific 
water is a stream by filing a petition for appeal with the board within thirty 
(30) days of receiving the commissioner’s decision. For purposes of this 
subsection (r), a qualified hydrologic professional is a person holding a 
bachelor’s degree in biology, geology, ecology, engineering or related sciences, 
having at least five (5) years of relevant experience in making hydrologic 
determinations and who has been certified as a hydrologic professional 
pursuant to rules promulgated by the board.

(s) Any national pollutant discharge elimination system (NPDES) permit 
issued pursuant to this section to a local governmental entity administering a 
municipal separate storm sewer system shall not impose post-construction 
storm water requirements, except to the extent necessary to comply with the 
minimum requirements of federal law. Any such NPDES permit that includes 
numeric or narrative effluent limitations to manage post-construction storm 
water shall allow the local governmental entity administering a municipal 
separate storm sewer system discretion in selecting measures to meet any such 
effluent limitations.

(t) This state shall not require any local governmental entity that admin-
isters a municipal separate storm sewer system under a national pollutant 
discharge elimination system (NPDES) permit issued pursuant to this section 
to impose control measures for post-construction storm water that exceed the 
minimum requirements of federal law. Any local governmental entity that 
adopts control measures that exceed the minimum requirements of federal law 
must do so by ordinance or resolution, as appropriate, by the local legislative 
body upon a majority vote. This subsection (t) shall not apply to any ordinance 
or resolution in effect on April 23, 2016, but shall not preclude a local 
governmental entity that administers a municipal separate storm sewer 
system from making changes consistent with subsection (s) and this subsection 
(t). When a local governmental entity seeks coverage under any future version 
of the NPDES permit after April 23, 2016, such ordinance or resolution shall 
comply with subsection (s) and this subsection (t). The local government entity 
shall provide in writing the control measures that exceed federal minimum 
requirements to the local legislative body at least thirty (30) days in advance 
of a vote in order to provide for a public comment period.

(u)(1) Notwithstanding any other law, a person who has contracted for the 
right to store water in a reservoir owned by the U.S. Army Corps of 
Engineers shall have exclusive rights to any return flows generated directly 
or indirectly to that reservoir by the person. The rights conferred by this
subsection (u) shall be subject to any regulatory requirements imposed by the commissioner and to the availability to the person of unused storage capacity within the reservoir to store such return flows.

(2) As used in this subsection (u), “return flow” means water that is discharged directly or indirectly to a reservoir from a water reclamation facility.

69-3-108. Permits. [Effective on March 1, 2018. See the version effective until March 1, 2018.]

(a) Every person who is or is planning to carry on any of the activities outlined in subsection (b), other than a person who discharges into a publicly owned treatment works or who is a domestic discharger into a privately owned treatment works, or who is regulated under a general permit as described in subsection (l), shall file an application for a permit with the commissioner or, when necessary, for modification of such person’s existing permit.

(b) It is unlawful for any person, other than a person who discharges into a publicly owned treatment works or a person who is a domestic discharger into a privately owned treatment works, to carry out any of the following activities, except in accordance with the conditions of a valid permit:

(1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state;

(2) The construction, installation, modification, or operation of any treatment works, or part thereof, or any extension or addition thereto;

(3) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit;

(4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;

(5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;

(6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

(7) The actual discharge of a pollutant from a concentrated animal feeding operation; provided, however, only those operations that are required under the federal Clean Water Act (33 U.S.C. § 1251 et seq.), to have a permit for concentrated animal feeding operations may be issued a national pollutant discharge elimination system (NPDES) permit;

(8) The discharge of sewage, industrial wastes, or other wastes into a well or a location where it is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances that do or may affect the waters of the state; or

(9) The diversion of water through a flume for the purpose of generation of electric power by a utility.

(c) Any person operating or planning to operate a sewerage system shall file an application with the commissioner for a permit or, when necessary, for modification of such person’s existing permit. Unless a person holds a valid
permit, it is unlawful to operate a sewerage system.

(d) Nothing in this section shall be construed to require any person discharging into a septic tank connected only to a subsurface drainfield, or any person constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, except in a county having a population of not less than sixty thousand two hundred fifty (60,250) nor more than sixty thousand three hundred fifty (60,350), according to the 1970 federal census or any subsequent federal census, as defined and regulated by §§ 68-211-101 — 68-211-115, to secure a permit; provided, that the exemption provided in this subsection (d) shall not exempt such person from any other provision of this part; and provided further, that any such person who is exempt from obtaining a permit for constructing or operating a sanitary landfill between March 25, 1980, and March 24, 1982, shall not thereafter be required to obtain such permit.

(e) Applicants for permits that would authorize a new or expanded wastewater discharge into surface waters shall include in the application consideration of alternatives, including, but not limited to, land application and beneficial reuse of the wastewater.

(f) With regard to permits for activities related to the surface mining of coal:

(1) No permit shall be issued that would allow removal of coal from the earth from its original location by surface mining methods or surface access points to underground mining within one hundred feet (100') of the ordinary high water mark of any stream or allow overburden or waste materials from removal of coal from the earth by surface mining of coal to be disposed of within one hundred feet (100') of the ordinary high water mark of a stream; provided, however, that a permit may be issued or renewed for stream crossings, including, but not limited to, rail crossings, utilities crossings, pipeline crossings, minor road crossings, for operations to improve the quality of stream segments previously disturbed by mining and for activities related to and incidental to the removal of coal from its original location, such as transportation, storage, coal preparation and processing, loading and shipping operations within one hundred feet (100') of the ordinary high water mark of a stream if necessary due to site specific conditions that do not cause the loss of stream function and do not cause a discharge of pollutants in violation of water quality criteria. Nothing in this subdivision (f)(1) shall apply to placement of material from coal preparation and processing plants;

(2) Without limiting the applicability of this section, if the commissioner determines that surface coal mining at a particular site will violate water quality standards because acid mine drainage from the site will not be amenable to treatment with proven technology both during the permit period or subsequent to completion of mining activities, the permit shall be denied.

(g) The commissioner may grant permits authorizing the discharges or activities described in subsection (b), including, but not limited to, land application of wastewater, but in granting such permits shall impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to accomplish the purposes of this part, and as are not inconsistent with the regulations promulgated by the board. Under no circumstances shall the commissioner issue a permit for an activity that would cause a condition of pollution either by itself or in combination with others. In addition the permits shall include:

(1) The most stringent effluent limitations and schedules of compliance, either promulgated by the board, required to implement any applicable water quality standards, necessary to comply with an areawide waste treatment
plan, or necessary to comply with other state or federal laws or regulations;

(2) A definite term, not to exceed five (5) years, for which the permit is valid. This term shall be subject to provisions for modification, revocation or suspension of the permit;

(3) Monitoring, recording, reporting, and inspection requirements; and

(4) In the case of permits authorizing discharges from publicly owned treatment works, terms and conditions requiring the permittee to enforce user and cost recovery charges, pretreatment standards, and toxic effluent limitations applicable to industrial users discharging into the treatment works.

(h) The commissioner may revoke, suspend, or modify any permit for cause, including:

(1) Violation of any terms or conditions of the permit or of any provision of this part;

(2) Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts; or

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(i) No permit under subsection (g) or (h) for the construction of any new outlet or for construction activities involved in the development of natural resources, for the construction of a new waste treatment system or for the modification or extension of an existing waste treatment system shall be issued by the commissioner until the plans have first been submitted to and approved by the commissioner. No such approval shall be construed as creating a presumption of correct operation nor as warranting by the commissioner that the approved facilities will reach the designated goals. If an environmental impact statement is required for any permit, the commissioner may require the applicant to pay for its preparation. Any such impact statement must also include and address economic and social impact.

(j) Any permit procedure or other action required by or undertaken in accordance with this section or part shall be conducted in accordance with title 13, chapter 18, when the permit or action involves a major energy project, as defined in § 13-18-102.

(k) Nothing in this section shall be construed to limit or circumscribe the authority of the commissioner to issue emergency orders as specified in § 69-3-109.

(l) Where the commissioner finds that a category of activities or discharges would be appropriately regulated under a general permit, the commissioner may issue such a permit. Any person conducting activities in the category covered by a general permit shall not be required to file individual applications for permits except as provided in specific requirements of the general permit. Any person conducting activities covered under a general permit may be required by the commissioner to file an application for any individual permit. Upon the issuance of an individual permit to a person with a general permit, the applicability of the general permit to that permitted activity or discharge shall be terminated. Any person who holds an individual permit for an activity or discharge covered under the provisions of a general permit may request that the individual permit be revoked. Upon such revocation, the activity or discharge shall become subject to the provisions of the general permit.

(m) Notwithstanding subsection (g), upon application by a person who discharges into groundwaters of the state and who is subject to a permit issued pursuant to the Hazardous Waste Management Act, compiled in title 68, chapter 212, the commissioner may issue variances from the applicable water
quality standards, criteria, or classification for groundwater; provided, that:

(1) The waters to which the variance applies are not used as a current source of drinking water and such use is not reasonably anticipated for the term of the variance and a reasonable time thereafter;

(2) The applicant demonstrates that such discharges will not pose a substantial present or potential hazard to human health or the environment as defined in Tenn. Comp. R. & Reg. 1200-01-11-.06(6)(e)(2) (reserved) in effect on April 1, 1988, and will not impair any actual, current uses other than those affected by the variance;

(3) Variances will be effective for a specific term, not to exceed the effective term of the permit;

(4) The variance is consistent with the Federal Water Pollution Control Act, compiled in 33 U.S.C. § 1251 et seq., and the federal Safe Drinking Water Act, compiled in 42 U.S.C. § 300f et seq.; and

(5) The variance provided for under this subsection (m) shall be applied for and issued in accordance with procedures regarding the issuance of permits as required by regulations issued under this chapter.

(n)(1) A chief administrative officer of a county highway department does not violate this chapter by repairing or causing the repair of up to four hundred feet (400') of highway or road in an emergency situation, if immediate repairs are necessary to protect human safety and welfare, and if such repairs comply with rules and regulations promulgated by the board that regulate the manner in which the repairs are made. Such officer need not obtain a permit prior to making such repairs under such circumstances.

(2) As soon as practicable, the chief administrative officer of a county highway department shall notify the commissioner by telephone that an emergency has arisen and that such chief administrative officer intends to make repairs in response to such emergency. The giving of such notice shall not be construed to authorize the commissioner to terminate such repairs.

(3) Within ten (10) days of the completion of any highway or road repair made pursuant to this subsection (n), the chief administrative officer of the county highway department ordering such repair shall notify the commissioner, in writing, of the action taken and the nature of the emergency necessitating such immediate repair.

(o) The following activities do not require a permit under this section:

(1) The removal of downed trees by dragging or winching and without grading or reshaping of the stream channel;

(2) The placement of downed trees on stream banks for erosion protection; and

(3) The planting of vegetation on stream banks.

(p) Unless the applicant agrees otherwise, when an individual landowner applies for a permit for debris removal or stream bank stabilization activities, the commissioner shall either issue or deny the permit or take action scheduling a public hearing on the application within sixty (60) days of receipt of a complete application; provided further, however, that the staff of the division will communicate orally or in writing to the applicant within fifteen (15) days of receipt of any such application.

(q)(1) The alteration of a wet weather conveyance, as defined in § 69-3-103, by any activity is permitted by this subsection (q) and shall require no notice or approval; provided, that it is done in accordance with all of the following conditions:
(A) The activity may not result in the discharge of waste or other substances that may be harmful to humans or wildlife;

(B) Material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area;

(C)(i) Sediment shall be prevented from entering other waters of the state;

(ii) Erosion and sediment controls shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer’s specifications and good engineering practices;

(iii) Erosion and sediment control measures shall be in place and functional before earth moving operations begin, and shall be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but shall be replaced at the end of the work day;

(iv) Checkdams shall be utilized where runoff is concentrated. Clean rock, log, sandbag or straw bale checkdams shall be properly constructed to detain runoff and trap sediment. Checkdams or other erosion control devices are not to be constructed in stream. Clean rock can be of various type and size, depending on the application. Clean rock shall not contain fines, soils or other wastes or contaminants; and

(D) Appropriate steps shall be taken to ensure that petroleum products or other chemical pollutants are prevented from entering waters of the state. All spills shall be reported to the appropriate emergency management agency and to the division. In the event of a spill, measures shall be taken immediately to prevent pollution of waters of the state, including groundwater.

(2) There shall be no additional conditions upon a person’s activity within a wet weather conveyance. This subdivision (q)(2) does not apply to national pollutant discharge elimination system (NPDES) permits.

(r) A person desiring to alter a specific water of the state may request a determination from the commissioner that it is a wet weather conveyance and submit a report from a qualified hydrologic professional in support of the request. If the report contains all information that is required in rules promulgated by the board, and in accordance with department procedures and guidance, and is certified by a qualified hydrologic professional to be true, accurate and complete and, if submitted after promulgation of the rules required by § 69-3-105(1), contains all information that is required in those rules, then the determination made in the report shall be presumed to be correct, unless the commissioner notifies the person, in writing, within thirty (30) days of submittal of the report, that the commissioner has affirmatively determined that there is a significant question about whether the water of the state in question is a stream or a wet weather conveyance and states the reasons for that determination. In that event, the commissioner must, within thirty (30) days following the initial notification, determine whether the water of the state in question is a stream or a wet weather conveyance and notify the person in writing of that decision and the reasons for that determination. A person may appeal a determination by the commissioner that the specific water is a stream by filing a petition for appeal with the board within thirty (30) days of receiving the commissioner’s decision. For purposes of this subsection (r), a qualified
hydrologic professional is a person holding a bachelor’s degree in biology, geology, ecology, engineering or related sciences, having at least five (5) years of relevant experience in making hydrologic determinations and who has been certified as a hydrologic professional pursuant to rules promulgated by the board.

(s) Any national pollutant discharge elimination system (NPDES) permit issued pursuant to this section to a local governmental entity administering a municipal separate storm sewer system shall not impose post-construction storm water requirements, except to the extent necessary to comply with the minimum requirements of federal law. Any such NPDES permit that includes numeric or narrative effluent limitations to manage post-construction storm water shall allow the local governmental entity administering a municipal separate storm sewer system discretion in selecting measures to meet any such effluent limitations.

(t) This state shall not require any local governmental entity that administers a municipal separate storm sewer system under a national pollutant discharge elimination system (NPDES) permit issued pursuant to this section to impose control measures for post-construction storm water that exceed the minimum requirements of federal law. Any local governmental entity that adopts control measures that exceed the minimum requirements of federal law must do so by ordinance or resolution, as appropriate, by the local legislative body upon a majority vote. This subsection (t) shall not apply to any local governmental entity that administers a municipal separate storm sewer system from making changes consistent with subsection (s) and this subsection (t). When a local governmental entity seeks coverage under any future version of the NPDES permit after April 23, 2016, such ordinance or resolution shall comply with subsection (s) and this subsection (t). The local government entity shall provide in writing the control measures that exceed federal minimum requirements to the local legislative body at least thirty (30) days in advance of a vote in order to provide for a public comment period.

(u)(1) Notwithstanding any other law, a person who has contracted for the right to store water in a reservoir owned by the U.S. Army Corps of Engineers shall have exclusive rights to any return flows generated directly or indirectly to that reservoir by the person. The rights conferred by this subsection (u) shall be subject to any regulatory requirements imposed by the commissioner and to the availability to the person of unused storage capacity within the reservoir to store such return flows.

(2) As used in this subsection (u), “return flow” means water that is discharged directly or indirectly to a reservoir from a water reclamation facility.


(a)(1) Any person who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs:

(A) Violates an effluent standard or limitation or a water quality standard established under this part;
(B) Violates the terms or conditions of a permit;
(C) Fails to complete a filing requirement or causes false information to
be filed with the department;
(D) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement;
(E) Violates a final determination or order of the board, panel or commissioner;
(F) In the case of an industrial user of a publicly owned treatment works, fails to pay user or cost recovery charges or violates pretreatment standards or toxic effluent limitations established as a condition in the permit of the treatment works;
(G) After reasonable notice and opportunity to restore a ditch constructed pursuant to § 69-3-130, the owner of the property fails to restore the ditch to permit specifications; or
(H) Violates any other provision of this part or any rule or regulation promulgated by the board.
(2) Any civil penalty shall be assessed in the following manner:
(A) The commissioner may issue an assessment against any person responsible for the violation;
(B) Any person against whom an assessment has been issued may secure a review of such assessment by filing with the commissioner a written petition setting forth the grounds and reasons for the objections, and asking for a hearing in the matter involved before the board. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;
(C) Whenever any assessment has become final because of a person’s failure to appeal the commissioner’s assessment, the commissioner may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment; and
(D) The commissioner, through the attorney general and reporter, may institute proceedings for assessment in the chancery court of Davidson County or in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the department.
(3) In assessing the civil penalty, the commissioner may consider the following factors:
(A) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
(B) Damages to the state, including compensation for loss or destruction of wildlife, fish, and other aquatic life, resulting from the violation, as well as expenses involved in enforcing this section and the costs involved in rectifying any damage;
(C) Cause of the discharge or violation;
(D) The severity of the discharge and its effect upon the quality and quantity of the receiving waters;
(E) Effectiveness of action taken by the violator to cease the violation;
(F) The technical and economic reasonableness of reducing or eliminating the discharge;
(G) The social and economic value of the discharge source; and
(H) The economic benefit gained by the violator.
(4) The board may establish by regulation a schedule of the amount of civil penalty that can be assessed by the commissioner for certain specific
violations or categories of violations.

(b) Any person unlawfully polluting the waters of the state or violating or failing, neglecting, or refusing to comply with any of the provisions of this part, commits a Class C misdemeanor. Each day upon which such violation occurs constitutes a separate offense.

(c) Any person who willfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or the commissioner, or who willfully and knowingly pollutes the waters of the state, or willfully fails, neglects or refuses to comply with any of the provisions of this part commits a Class E felony and shall be punished by a fine of not more than twenty-five thousand dollars ($25,000) or incarceration, or both.

(d) The department is the sole state agency authorized to conduct investigations arising under this part. Notwithstanding any law to the contrary, other state agencies may assist the department in satisfying the duties arising under this part. The department of agriculture shall be notified of investigations associated with agricultural activities.

(e)(1) Whenever any order or assessment has become a final action under this section, a notarized copy of the same may be filed in the office of the clerk of the chancery court of Davidson County, and shall be considered as an agreement of the parties thereto to entry of a judgment by consent, the terms and conditions of which shall be the same as those recited in the final order or assessment. Except as otherwise provided in this section, the procedures for entry of the judgment and the effect thereof shall be the same as provided in title 26, chapter 6.

(2) If the final action is by the board, the judgment by consent shall be promptly entered by the court and shall be effective upon entry, and it shall have the same effect and be subject to the same procedures as a judgment of a court of record of this state and may be enforced or satisfied in like manner.

(3) If the final action is by the commissioner, the judgment by consent shall be promptly entered by the chancery court, but shall not become a final judgment until expiration of a period ending forty-five (45) days after the date it was filed. During this period, any citizen shall have the right to intervene in such proceeding on the grounds that the remedy or remedies provided are inadequate or are based on erroneously stated facts. If intervention occurs, the court shall determine whether it is duplicitous or frivolous and shall notify the parties and the intervenor of its determination. If determined not to be duplicitous or frivolous, review of the order or assessment shall be deemed to be sought by all parties and shall proceed in accordance with § 4-5-322. If no citizen intervenes or if any such intervention is deemed duplicitous or frivolous, upon the expiration of the forty-five-day period, the judgment by consent shall be final, and it shall have the same effect and be subject to the same procedures as a judgment of a court of record of this state and may be enforced or satisfied in like manner.

70-1-101. Title definitions — Construction of dates and provisions.

(a) As used in this title, unless the context otherwise indicates, the definitions and rules of construction in this section shall govern the construction of this title, and proclamations and rules and regulations made or adopted by the commission:

(1) “Agency” means the wildlife resources agency;
(2) “Angling” means any effort made to take, kill, injure, capture, or catch any fish and every act of assistance in any effort;
(3) “Bag limit” means the maximum number of wildlife other than fish that may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
(4) “Big game” means deer, bear, wild turkey, and all species of large mammals that may be introduced or transplanted into this state for hunting;
(5) “Bullfrog” means jumbo frog (Rana catesbiana);
(6) “Carcass” means the dead body of any wildlife or a portion of any such dead body;
(7) “Chumming” means placing fish, parts of fish, or other material upon which fish might feed, in the waters of this state for the purpose of attracting fish to a particular area in order that they may be taken, but “chumming” does not include angling;
(8) “Commission” means the Tennessee fish and wildlife commission, and “commissioner” means a member of the fish and wildlife commission;
(9) “Creel limit” means the maximum number of fish that may be taken, caught, killed, or possessed, by any person for any particular period of time, as provided by rule and regulation adopted by the commission;
(10) [Deleted by 2017 amendment.]
(11) “Executive director” means the executive director of the wildlife resources agency;
(12) “Falconry” means hunting by means of a trained raptor;
(13) “Fish” means all species of trout, salmon, walleye, northern pike, bass, crappie, bluegill, catfish, perch, sunfish, drum, carp, sucker, shad, minnow, and such other species of fish that are presently found in the state or may be introduced or transplanted into this state for consumptive or nonconsumptive use;
(14) “Fishing” means any effort made to take, kill, injure, capture, or catch any fish and every act of assistance in any effort;
(15) “Fur bearer” means beaver, raccoon, skunk, groundhog, coyote, gray fox, red fox, mink, muskrat, otter, weasel, bobcat, and opossum, and all subspecies or variations of the foregoing, and any other animals that may be declared by the commission under regulation to be a fur bearer;
(16) “Game birds” means all species of grouse, pheasant, woodcock, wilson snipe, crow, quail, waterfowl, gallinules, rails, mourning dove, and all species of birds that may be introduced into this state for hunting;
(17) “Harvest tag” means the certificate that is required either by law or rule or regulation of the commission to be secured to the carcass of wildlife as evidence of legal taking and ownership;
(18) “Hours” means the hours of the day or night when wildlife may be taken lawfully;
(19) “Hunting” means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, trapping, shooting at, stalking, or lying in wait for, any wildlife, whether or not such wildlife is then or subsequently captured, killed, taken, or wounded and every act of assistance to any other person, but “hunting” does not include stalking, attracting, searching for, or lying in wait for, wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures of wildlife;
(20) “Motor vehicle” means any self-propelled vehicle, and any vehicle propelled or drawn by a self-propelled vehicle, wherever operated, but does
not include any vessel;

(21) “Nongame birds” means all species of birds not classified as game birds;

(22) “Nongame mammal” means all species of wild mammals not classified as big game, small game, or fur bearers. Domestic dogs and cats when running at large and apparently unclaimed and not under human control, whether licensed or unlicensed, shall come within this subdivision (a)(22) for control and regulation by law or commission rule or regulation not inconsistent with Tennessee Anti-Rabies Law, complied in title 68, chapter 8, to the extent such dogs and cats are endangering or harassing wildlife;

(23) “Nonresident” means any person who is not a resident;

(24) “Person” means an individual, association, partnership, or corporation;

(25) “Personally attended rod or line” means a rod or line that is used for fishing or angling, and that is under the personal control of a person who is in proximity to such rod or line;

(26) “Possession” means both actual and constructive possession, and any control of the object or objects referred to;

(27) “Possession limit” means the maximum limit in number or amount of wildlife that may be lawfully in the possession of any one (1) person;

(28) “Public hunting area” means a specific land or water area, or both, not intensively managed that is established for the protection of wildlife species and public use by both consumptive and nonconsumptive users;

(29) “Public road” means the traveled portion of, and the shoulders on each side of, any road or highway maintained for public travel by a county, city, city and county, the state, or the United States government, and includes all bridges, culverts, overpasses, fills, and other structures within the limits of the right-of-way of any such road or highway;

(30) “Raptor” means all birds found in the wild that are members of the order of falconiformes, strigiformes, and specifically, but not by way of limitation, means falcons, hawks, owls, and eagles, except the golden and bald eagle;

(31) “Refuge” means a specific land or water area, or both, that is established for the protection of one (1) or more species of wildlife with no, or limited forms of, consumptive uses, and limited nonconsumptive use to the degree compatible with desired wildlife protection;

(32) “Resident” means any person who resides in this state for a period of ninety (90) consecutive days with the genuine intent of making this state that person’s place of permanent abode, and who, when absent, intends to return to this state. For the purposes of this subdivision (a)(32), the following are deemed residents of this state:

(A) Members of the armed services of the United States or any nation allied with the United States, who are on active duty in this state under permanent orders;

(B) Personnel in the diplomatic service of any nation recognized by the United States, who are assigned to duty in this state; and

(C) Students who are attending and have been enrolled at least six (6) months in any school, college, or university in this state;

(33) “Sell” includes the offering or possessing for sale, bartering, exchanging or trading;
(34) “Small game” means fur bearers, game birds, swamp rabbits, bull-frogs, cottontail rabbits, fox squirrels, gray squirrels, red squirrels, and all species of small mammals and birds that may be introduced into this state for hunting;

(35) “Snagging” means fishing, without the use of either bait or artificial lure or any other device designed to attract fish, by snatching with hooks, gang hooks, or similar devices;

(36) “State fishing area” means a body of water where environmental conditions are such that relatively high fish production is possible and where fishing is the principal public use of the water;

(37) “Transport” means to carry or convey from one place to another, and includes an offer to transport, or receipt or possession for transportation;

(38) “Trapping” means taking, killing, and capturing wildlife by the use of any trap, snare, deadfall, or other device commonly used to capture wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as placing, setting, or staking such traps, snares, deadfalls, and other devices, whether or not such acts result in taking of wildlife, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, snares, deadfalls, or other devices;

(39) “Waters of the state” means any waters within the territorial limits of the state of Tennessee;

(40) “Wild bird” means all game birds, nongame birds, and raptors;

(41) “Wildlife” means wild vertebrates, mollusks, crustaceans, and fish;

(42) “Wildlife management area” means a specific land or water area, or both, that is established for the intensive management of both habitat and wildlife species for optimum enhancement and use by both consumptive and nonconsumptive users; and

(43) “Zoological institution” or “zoo” means an institution operated wholly or in part by a political subdivision of the state to display wildlife to the public. For the purposes of § 70-4-403(1), permitted permanent and temporary exhibitors are regarded as zoos.

(b) Whenever in this title, or proclamation and rules and regulations adopted under this title, the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time indicated includes both dates specified. The first date specified designates the first day of the period, and the second date designates the last day of the period.

(c) Every provision relating to any fish or wildlife shall be deemed to apply to any part of the fish or wildlife with the same force and effect as it applies to the whole of any fish or wildlife.

70-1-105. Notification of potential water quality violation regarding agricultural property.

If the agency receives a complaint or otherwise becomes aware of a potential water quality violation regarding property used in agriculture, as defined by § 1-3-105, the agency must notify both the department of environment and conservation and the department of agriculture, as soon as practicable, pursuant to § 69-3-115(d).

70-1-305. Powers of executive director.

The executive director of the wildlife resources agency has the power to:
(1) Enforce all laws relating to wildlife, and to go upon any property, outside of buildings, posted or otherwise, in the performance of the executive director’s duties;

(2) Execute all warrants and search warrants for the violation of the laws relating to wildlife;

(3) Serve subpoenas issued for the examination, investigation and trial of all offenses against the law relating to wildlife;

(4) Arrest without warrant any person found in the act of violating any of the provisions of this title;

(5) Offer rewards or payments for information that may aid in the conviction of any offender violating any section, or sections, of this title or any other law relating to wildlife;

(6)(A) Enforce any other law as directed by the general assembly;

(B) In connection with this duty, in view of the vast expanse of isolated wildlife habitat extant throughout the state, and to facilitate the effective protection of public and private rights and property, particularly in, but not limited to, these isolated areas, the executive director shall, in addition to the authority otherwise conferred by law, be vested with authority to arrest, without warrant or process of any kind, any person committing or attempting to commit a criminal offense in violation of any of the laws of this state if the offense is committed on public lands, rights-of-way or waters under the agency’s management or control through lease, cooperative agreement or otherwise;

(7) Designate employees of the agency, officers of any other state or of the federal government who are full-time wildlife enforcement personnel, to perform the duties and have the powers as prescribed in this section except subdivision (9);

(8) Arrest without warrant any person observed dumping or throwing litter or debris in the lakes, rivers, or on public property in the state;

(9) Accept on behalf of the agency gifts of personal property upon such terms and conditions and for such uses and purposes as may be agreed by the donor of the personal property and the executive director;

(10) Arrest without warrant any person who violates the prohibited uses of waters posted pursuant to § 69-3-107(15). The power granted pursuant to this subdivision (10) does not include the authority to investigate violations of the Water Quality Control Act, compiled in title 69, chapter 3, part 1;

(11) Exercise the powers of the commissioner of environment and conservation, as provided in title 11, chapter 14, part 1, with respect to the administration of the Reelfoot Lake natural area; and

(12) Suspend or reinstate a hunting, fishing or trapping privilege after affording proper due process, pursuant to the terms of any § 70-1-302 agreement involving reciprocal actions relative to wildlife violations.

70-1-309. Salary administration plan.

(a) The department of human resources and the Tennessee wildlife resources agency shall develop a salary administration plan for the agency’s officers, biologists, and other positions unique to the agency. Notwithstanding any other law to the contrary, upon approval of the commissioners of finance and administration and human resources and the director of the Tennessee wildlife resources agency, such salary administration plan shall be imple-
mented during the 1996-1997 fiscal year. Implementation of salary increases pursuant to such salary administration plan shall be suspended for the fiscal years beginning July 1, 2003, and ending June 30, 2004, and beginning July 1, 2009, and ending June 30, 2010. In the fiscal years beginning July 1, 2004, and July 1, 2010, and in subsequent fiscal years, salary increases pursuant to the salary administration plan shall not include time of service between July 1, 2003, and June 30, 2004, nor between July 1, 2009, and June 30, 2010.

(b) The salary increase provided by this section and suspended by subsection (a) for the period July 1, 2003, through June 30, 2004, shall be reinstated effective July 1, 2017. For purposes of determining the appropriate salary classification pursuant to this section, credible service for the time period of July 1, 2003, through June 30, 2004, shall be included.

70-2-104. Persons entitled to license without fee or at reduced fee — Penalty for false information — Imposition of fee.

(a) The wildlife resources director and the director's agents, through the county clerks or other legally designated license sales agents, have the power to issue a:

(1) Sport fishing license without the payment of a license fee to those residents of Tennessee who are certified to be blind, having a visual acuity, with maximum correction, not exceeding 20/200 in the better eye or having a visual acuity exceeding 20/200 but accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees (20°). The director shall accept as evidence, for the purposes of this title, a certificate from the department of human services or from a physician licensed to practice medicine in this state and who is actively engaged in the treatment of diseases of the human eye, or a licensed, registered optometrist, certifying that such person meets the requirements of this section with reference to the degree of blindness as defined in this subdivision (a)(1);

(2) Sport fishing and hunting license without the payment of a fee to residents of Tennessee who by reason of service in any war are thirty percent (30%) or more disabled. The director shall accept as evidence of service-connected disability for the purposes of this section a certification from the veterans' administration;

(3)(A) Hunting license to persons with intellectual disabilities who reside in this state and who are over ten (10) years of age. The director shall accept as evidence for the purposes of this subdivision (a)(3) a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this section with reference to such disability. The person must be accompanied by an adult at least twenty-five (25) years of age or older, who is hunter-education-certified and licensed to hunt. The person shall be required to complete the hunter education course as provided in § 70-2-108 in the presence of a licensed adult, but shall not be required to attain a particular score on the course examination or take the course more than once;

(B) As used in this subdivision (a)(3), unless the context otherwise requires:

(i) “Accompanied” means the licensed adult shall supervise no more than one (1) person with intellectual disabilities at any one (1) time and
shall be able to take immediate control of the hunting device;

(ii) "Persons with intellectual disabilities" means persons who possess an intellectual disability, as defined by § 33-1-101;

(C) The commission shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to effectuate the purposes of subdivision (a)(3)(A), including, but not limited to, rules and regulations to specifically denote on the license that the person issued the license is a person with intellectual disabilities, and to create a one-time-only fee in an amount sufficient to cover the costs of implementing subdivision (a)(3)(A); and

(4)(A) Permanent sport combination hunting and fishing license upon payment of a one-time ten-dollar ($10.00) fee to those residents of Tennessee who are permanently restricted to wheelchairs. The director shall accept as evidence for the purposes of this section a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this section with reference to permanent restriction to a wheelchair; or

(B) Permanent sport combination hunting and fishing license upon payment of a one-time ten-dollar ($10.00) fee to those residents of Tennessee who are one hundred percent (100%) permanently and totally service connected disabled veterans who apply for such discounts and exemptions prior to or after May 24, 2000. The agency shall accept as evidence of service-connected disability for the purposes of this subdivision (a)(4)(B) a certification from the veterans' administration.

(b)(1) The fish and wildlife commission shall by proclamation designate one (1) week of each year when any person who receives social security benefits due to intellectual disability may engage in all forms of sport fishing, and all sport fishing license requirements shall be suspended during such week for such persons. The agency may accept as evidence for purposes of this section a certificate from the social security administration or any other evidence acceptable to the executive director.

(2) A resident of Tennessee who receives social security benefits due to intellectual disability is entitled to the privilege of sport fishing upon presentation of evidence of such disability satisfactory to the agency. Such resident shall be issued a permanent license for sport fishing.

(c) The giving of false information as to name, age, degree of blindness, percentage of disability, permanent restriction to a wheelchair, address, residence or nonresidence by any applicant for any license provided for in this chapter, or altering any license or permit or any application for any license or permit, is a Class C misdemeanor.

(d)(1) The license fee discounts and exemptions provided in subsections (a) and (b) shall apply to qualified residents of Tennessee who apply for such discounts or exemptions prior to May 24, 2000.

(2) For qualified residents of Tennessee who have not applied for such discounts or exemptions prior to May 24, 2000, there shall be imposed a one-time ten-dollar ($10.00) fee for such license; provided, that such fee shall not apply to the exemption granted in subdivision (b)(1).

(3) Any qualified resident of Tennessee who has applied for such discount or exemption prior to May 24, 2000, may nevertheless make a voluntary payment of the one-time ten-dollar ($10.00) fee and upon making such payment shall be issued a license in accordance with this section.
(e)(1) This subsection (e) shall be known and may be cited as the “Hunter Wright Hunting and Fishing Act.”

(2) Notwithstanding this section to the contrary, the wildlife resources director and the director’s agents, through the county clerks or other legally designated license sales agents, have the power to issue an annual sport combination hunting and fishing license upon payment of a five-dollar ($5.00) fee to residents who are under eighteen (18) years of age and who are disabled.

(3) As used in this subsection (e), “disabled” means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that is certified by a licensed physician. This means that the condition must be both totally and permanently disabling. The director shall accept as evidence for the purposes of this subsection (e) a certificate from a physician licensed to practice medicine in this state certifying that the applicant meets the requirements of this subsection (e) with reference to being disabled.

(4) The commission shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, to specifically denote on the license that the person is disabled.

(f)(1)(A) The agency shall be reimbursed for lost revenue resulting from the issuance of free or partially discounted combination hunting and fishing licenses created by statute on or after January 1, 2017, in an amount equal to the discounts received.

(B) Subdivision (f)(1)(A) shall also apply to lost revenue resulting from exemptions to licensure requirements created by statute on or after January 1, 2017, in an amount equal to the amount of lost revenue from such exemptions.

(2)(A) The agency shall maintain an accounting of lost revenue, as described in subdivision (f)(1), and shall submit the accounting to the department of finance and administration for the payment of moneys in an amount equal to such lost revenue out of the general fund on or before June 30 of each fiscal year.

(B) Within thirty (30) days of the receipt of the accounting from the agency, the department of finance and administration must pay the actual amount of lost revenue for the fiscal year into the wildlife resources fund established in § 70-1-401.

(C) The accounting maintained pursuant to subdivision (f)(2)(A) and any other records relating to the accounting shall be subject to audit by the comptroller of the treasury.

(3) Any reimbursement to the agency for lost revenue pursuant to subdivision (f)(1)(A) shall be made from the general fund, subject to an appropriation by the general assembly in the annual general appropriations act.

70-4-120. Trapping, snaring or baiting regulations — Penalties for violations — Snare traps — Use of tamed quail to train bird dogs.

(a)(1)(A) It is unlawful for any person, except as provided in this chapter, to set or place any trap or snare, or bait any trap or device, upon the lands of, or in the waters adjoining the lands of, any person, for the purpose of
catching or killing any wild animal upon the lands of another, except during the open season on such animals, and then only after such person has obtained the written consent of the owner of the lands, which written consent shall be upon the person who may be using or setting the devices; provided, that nets, spring poles and deadfalls are prohibited at all times and all places.

(B) The commission shall promulgate rules or adopt proclamations, as necessary, to:

(i) Determine the types of steel traps that may be used in the taking of wild animals; and

(ii) Regulate the placement of steel traps.

(C) The commission shall promulgate rules or adopt proclamations, as necessary, to establish inspection requirements for steel traps used in the taking of wild animals.

(D) Persons trapping upon the lands of another shall at once make to the owner of the lands a full written report of the head of fowl, stock, or dog caught in the steel trap or other trapping device set by such person, giving the date the fowl, stock or dog was caught, with a full description of the fowl, stock or dog.

(E) When damage is done to any person’s fowl, stock, dogs or the like by reason of being caught by the device, the one setting or placing the device shall be liable for all damages done by such device.

(F) All traps set or used for the purpose of taking any wild animals shall be stamped with the owner’s name in such manner that the same shall be legible at all times. Any trap or traps found that are not stamped may be confiscated or destroyed.

(G) Any person violating this section commits a Class C misdemeanor and also is prohibited from trapping or engaging in the business of buying or selling furs for a period of time of not less than one (1) year, or both. Any person who traps or engages in the business of buying or selling furs during the period commits a Class C misdemeanor.

(2) [Deleted by 2017 amendment.]

(b) It is lawful at all times for any person to train bird dogs through the use of release pens and tamed and identified quail. The tamed quail shall be identified through the use of tags or dye and the training of the bird dogs shall be conducted under such rules and regulations as may be promulgated by the fish and wildlife commission.

70-4-124. Wearing daylight fluorescent orange color while hunting big game required — Penalty.

(a) Every person hunting big game except turkey during the gun hunts proclaimed by the commission shall wear on the upper portion of the body and head outer garments of daylight fluorescent orange color of not less than five hundred square inches (500 sq. in.) and visible from the front and back.

(b) “Daylight fluorescent orange color” means having a dominant wavelength between five hundred ninety-five thousandths (0.595) and six hundred five thousandths (0.605) nanometers, excitation purity of not less than eighty-five percent (85%) and a luminance factor of not less than forty percent (40%).

(c) A violation of this section is a Class C misdemeanor.

(d) This section does not apply to a person hunting on that person’s own
Notwithstanding § 8-21-401, the court costs imposed or assessed against any person convicted of a violation of this section may not exceed the maximum fine amount that may be imposed for a violation of this section.

71-2-401. Part definitions.

As used in this part, unless the context otherwise requires:

1. “Adult day care” means services provided to five (5) or more adult recipients, for more than three (3) hours per day, by a provider of such services who is not related to such adult, pursuant to an individualized plan of care designed to maintain or restore each adult’s optimal capacity for self care through medical or social services;

2. “Adult day care center” means a facility that provides adult day care services;

3. “Commissioner” means the commissioner of human services;

4. “Department” means the department of human services; and

5. “Related” means, for purposes of this part, a person who is related to the adult day care services recipient as a legal or biological parent, spouse, child, sibling, aunt, uncle, nephew or niece of any degree, grandparent or grandchild of any degree, or cousin to the third degree, or a step parent, or a step grandparent of any degree.

71-4-2103. Members — Terms — Meetings — Reimbursement for expenses.

(a) The council for the deaf, deaf-blind, and hard of hearing shall consist of eighteen (18) members and shall be composed as follows: the commissioners of education, human services, health, mental health and substance abuse, and safety or their designees, the assistant commissioner of rehabilitation services or the assistant commissioner’s designee, a representative of the Tennessee public utility commission, a representative of the Tennessee Emergency Management Agency, the president of the Tennessee Association of the Deaf, two (2) deaf consumer representatives appointed by the governor, one (1) president of a Hearing Loss Association of America chapter, two (2) hard of hearing consumer representatives appointed by the governor, the president of the Tennessee Registry of Interpreters for the Deaf, the president of the Tennessee Hands & Voices, one (1) deaf-blind representative who may be appointed by the governor from lists of qualified persons submitted by interested deaf-blind groups including, but not limited to, the Tennessee Organization of the Deaf-Blind and the Tennessee Deaf-Blind Association, and one (1) minority representative who may be appointed by the governor from lists of qualified persons submitted by interested minority deaf advocate groups including, but not limited to, chapters of the Tennessee Black Deaf Advocates. In appointing the deaf-blind representative and the minority representative to the council as provided in this subsection (a), the governor shall consult with interested deaf-blind and minority deaf advocate groups to determine qualified persons to fill the positions.

(b) The deaf, deaf-blind and hard of hearing representatives shall serve terms of three (3) years, except that to ensure staggered terms, the governor shall designate that two (2) of the six (6) members initially appointed to serve a one-year term, two (2) to serve two-year terms, and two (2) to serve
three-year terms. Any position that becomes vacant prior to the expiration of a full term shall be filled only for the period of the unexpired term. In making appointments to the council for the deaf, deaf-blind, and hard of hearing, the governor shall strive to ensure that at least one (1) person appointed to serve on the council is sixty (60) years of age or older.

(c)(1) The commissioner of education shall call the first meeting of the council, at which time, and annually thereafter, the members shall elect a chair. Thereafter, the council shall meet at the call of the chair, but at least quarterly.

(2)(A) Council members shall attend at least fifty percent (50%) of the required quarterly meetings.

(B) Any council member who fails to attend meetings as required in subdivision (c)(2)(A) shall be removed as a member by the appointing authority.

(d) Members of the council shall receive no compensation for their services other than reimbursement for traveling and other expenses incurred in the performance of their official duties. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.


(a) Medical assistance, including demonstration projects and programs designed to enhance the efficient and economic operation of the medicaid program, shall be provided to those classes of individuals determined to be eligible under § 71-5-106. This medical assistance, in the amount, scope, and duration determined by the commissioner of health and to the extent permitted by federal law, may include:

(1) Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases;

(2) Outpatient hospital services;

(3) Other laboratory and X-ray services;

(4) Skilled nursing home services, other than services in an institution for tuberculosis or mental diseases;

(5) Physicians’ services, whether furnished in the office, the patient’s home, a skilled nursing home, or elsewhere;

(6) Drugs;

(7) Inpatient hospital services for individuals sixty-five (65) years of age or over in an institution for tuberculosis or mental diseases, and inpatient hospital services for individuals under twenty-one (21) years of age in institutions for mental diseases, or in case of an individual who was receiving such inpatient services for mental disease in the period immediately preceding the date on which such individual becomes twenty-one (21) years of age:

(A) The date on which such individual no longer requires the services; or

(B) If earlier, the date such individual becomes twenty-two (22) years of age;

(8) Nonmedical nursing care shall be rendered in accordance with the tenets and practice of a recognized church or religious denomination to any
indigent person otherwise qualified for assistance under this part who
depends upon healing by prayer or spiritual means alone in accordance with
the tenets and practice of such church or religious denomination;
(9) Skilled nursing home services for individuals sixty-five (65) years of
age or over in institutions for tuberculosis or mental diseases;
(10) Medical screening, diagnostic and treatment services for eligible
categorically connected individuals under twenty-one (21) years of age;
(11) Psychiatric clinic services in approved facilities;
(12)(A) Home health care services provided in the recipient’s home. The
services may follow the recipient into the community subject to subdivi-
sion (a)(12)(B);
(B) Home health nurses or aides may accompany a recipient outside the
home during the course of delivery of prior approved home health nurse or
home health aide services if all of the following criteria are met:
(i) The home health nurse or home health aide shall not transport the
recipient;
(ii) The home health agency shall have discretion as to whether or not
to accompany a recipient outside the home. The circumstance under
which a home health agency may exercise such discretion shall include,
without limitation, when the home health agency has concern regarding
any of the following:
(a) The scheduling or safety of the transportation;
(b) The health or safety of their employee or the recipient;
(c) The ability to safely and effectively deliver services in the
alternative setting; and
(d) The additional expense that would be required to accompany a
patient outside the home;
(iii) Additional visits or hours of care will not be approved for
coverage for the purpose of accompanying a recipient outside the home.
Services will be limited to services to which the recipient would be
entitled if the services were provided exclusively at the recipient’s place
of residence; and
(iv) No additional reimbursement shall be paid to the home health
agency in association with the decision of a home health agency to
accompany a patient outside the home;
(C) Nothing in this subdivision (a)(12) is intended to create an entitle-
ment to services outside the home;
(D) A home health agency shall not be subject to any claims or cause of
action as result of exercising its discretion under this subdivision (a)(12);
(13) Transportation for approved emergency medical examination or
treatment, or both;
(14) Intellectual disability and rehabilitation services;
(15) Intermediate care facilities services;
(16) Medical services rendered by community or neighborhood health
organizations or clinics, including organizations or clinics where some or all
of the medical services are provided by medical students presently enrolled
in a medical school accredited by the Association of American Medical
Colleges or licensed registered nurses, or both, and where such students or
licensed registered nurses are under the direction of a licensed physician or
physicians;
(17) Family planning services and supplies;
Basic dental care services;

Medical and surgical services rendered by ambulatory surgical treatment centers;

Services rendered by rural health clinics;

Medical assistance and home- and community-based services to those eligible being served through a health care financing administration (HCFA) approved waiver designed to provide more efficient and economical alternatives to institutional care;

Services by nurse anesthetists who are registered by the Tennessee board of nursing, who have completed an advance course in anesthesia, and who hold a current certification from the American Association of Nurse Anesthetists as a nurse anesthetist;

Nurse midwife services performed by a person who is licensed by the Tennessee board of nursing as a registered nurse under the authority of the Nursing Practice Act, compiled in title 63, chapter 7, and certified by the American College of Nurse Midwives as a certified nurse midwife;

Services provided by certified pediatric nurse practitioners and certified family nurse practitioners as required by federal law;

(A) Sickle cell disease management services and public education campaign activities specifically related to sickle cell disease, as authorized by 42 U.S.C. § 1396d(a)(27) and (x), with reimbursement in accordance with any applicable state plan amendment;

(B) Any contract between a managed care organization (MCO) and the bureau of TennCare to provide medical assistance pursuant to this part shall be appropriately revised or amended in order to comply with the implementation of subdivision (a)(25)(A); and

Language interpreter services, which may include:

(A) Sign language interpreter services when such services are necessary to help hearing impaired recipients obtain covered services; and

(B) Spoken language interpreter services to all recipients with limited English proficiency.

(b) With respect to recipients determined to be “medically needy,” all or a part of the medical services outlined in subsection (a) may be provided, and may, within applicable federal legislation and regulations, be of lesser amounts, duration and scope than medical services provided other medicaid recipients in order to ensure that an expenditure of state funds shall not exceed the amount provided for the operation of the medicaid program.

c) When the amount, duration, and scope of medical services is lessened so as to no longer include intermediate care facility services, the commissioner of health, with approval of the commissioner of human services, may continue to provide intermediate care facility services to those recipients who have been determined to be medically indigent and placed in a medicaid certified intermediate care facility bed at the time such change in the amount, duration, and scope of medical services is made.

d) The department shall assist in the development of a demonstration project, which would provide cost effective alternatives to long-term care under the Omnibus Budget Reconciliation Act of 1981, to the extent permissible under the federal law, for institutional and residential homes that provide domiciliary care for the aged and mentally disabled, which project would include the Foster-Group Care Home Association. The development of such demonstration project shall begin on July 1, 1982.

e) The bureau of TennCare shall have the authority to implement a
comprehensive disease management program for certain enrollees of the TennCare program to the extent permitted under federal law and the TennCare waiver. The bureau, through its authority to promulgate rules and regulations, may identify enrollees eligible to participate and the disease categories to be included in the comprehensive disease management program. The bureau, also through its authority to promulgate rules and regulations, may put in place requirements regarding the continued participation of enrollees in the program.

(f) Subject to the availability of funding earmarked for such programs in the general appropriations act and to the extent permitted under federal law and the TennCare waiver, the bureau of TennCare shall have the authority to create in whole or in part and administer a program to be named “The TennCare safety net” which will provide two different components to assist eligible TennCare enrollees:

(1) Certain medical providers in Tennessee shall provide non-emergency health care services without co-payment requirements to certain specified TennCare enrollees. Such services are intended to include only services that are both medically necessary and within the scope of TennCare benefits for the particular enrollee but for which the enrollee cannot meet the co-payment requirements. Through its authority to promulgate rules and regulations, the bureau of TennCare will identify the parameters of this component of the TennCare safety net program, including which enrollees are eligible to participate in this program, allowable benefits under the program, designation of both urban and rural providers who participate in this program, and a funding methodology pursuant to which such providers shall be compensated;

(2)(A) A TennCare foundation will be established that will accept and review applications for medical assistance submitted on behalf of certain specified TennCare enrollees. The members of the foundation shall be appointed by the governor, who shall determine the size and composition of the foundation’s membership. The governor should strive to ensure that the membership is representative of the state’s geographic and demographic composition with appropriate attention to the representation of women and minorities. Terms for the members will be staggered and the length of terms will be detailed by the governor in making initial or subsequent appointments. The governor shall appoint the chair and vice-chair. For the purposes of administration and availability of records, the TennCare foundation shall be located within the bureau of TennCare; staff assistance shall be provided by the bureau of TennCare or by another entity, should the governor so determine. At the discretion of the governor, the foundation may be placed within another appropriate agency, may create or be reconstituted as a nonprofit entity, or may be terminated at any time; and

(B) Applications for medical assistance from the foundation are not intended, and should not be used, as a means to circumvent or avoid the benefit limits established by the bureau of TennCare. It is expected that these applications will be submitted to address special, unforeseen, or exceptional circumstances. Such applications must be submitted by a licensed medical provider who is treating the enrollee and shall request the provision of medically necessary health care services recommended or prescribed by the enrollee’s treating provider that are beyond the scope of

benefits provided through the TennCare program benefit package for which the enrollee is eligible. For the purposes of this subsection (f), “beyond the scope of benefits” means a benefit that is covered within limits by TennCare but for which the enrollee has exceeded the covered limits of that benefit. It does not include benefits that are not covered to any extent under TennCare for the applicant. The foundation will not consider matters of eligibility for the TennCare program. Through its authority to promulgate rules and regulations, the bureau of TennCare will identify the parameters of this component of the TennCare safety net program, including the process for making application to this foundation, which enrollees are eligible to apply, and a mechanism for determining which applications will be reviewed by the foundation. The foundation will not have rule-making authority;

(C)(i) Notwithstanding the availability of assistance from the foundation, no enrollee has an expectation of or an entitlement to assistance from the foundation;

(ii) There exists no right of appeal regarding an application for assistance; and

(iii) Because the level of funding provided to the foundation is limited, the foundation may not be able to fully or partially fund all applications. The decisions of which applications to fund will be solely within the discretion of the foundation;

(D) Nothing in this subsection (f) shall be construed to require a contested case hearing as set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, nor shall any determinations made by the foundation be considered final orders from which appeals can be taken. The consideration of applications provided for by this subdivision (f)(2)(D) shall not constitute hearings as set forth in the Uniform Administrative Procedures Act;

(E) The foundation shall consider applications and determine in its sole discretion and without requirement for written findings whether the application should be granted in whole or in part. The foundation’s determination on an enrollee’s application shall have no binding precedential effect on the consideration of any other enrollees’ applications;

(F) In the event that a matter being considered by the foundation presents a real or apparent conflict of interest for any staff or member, such staff or member shall disclose the conflict to the chair and be recused from any official action taken on the matter;

(G) Notwithstanding the open meetings law, compiled in title 8, chapter 44 or any other law to the contrary, any and all meetings of the TennCare foundation are to be considered confidential and closed to the public. Members and staff shall maintain strict standards of confidentiality in the handling of all matters before the foundation. In addition, all relevant federal and state laws regarding patient privacy and confidentiality will be adhered to. All material and information, regardless of form, medium, or method of communication, provided to or acquired by a foundation member or staff in the course of the foundation’s work, shall be regarded as confidential information, shall not be disclosed, and are not public records. In addition, all material and information, regardless of form, medium, or method of communication, made or generated by a member or foundation staff in the course of the foundation’s work, shall be regarded
as confidential information and shall not be disclosed and are deemed not to be a public record. All necessary steps shall be taken by members and staff to safeguard the confidentiality of such material or information in conformance with federal and state law;

(H) Every October 1, the foundation shall report in writing to the governor, the health and welfare committee and commerce and labor committee of the senate and the health committee and insurance and banking committee of the house of representatives regarding how funds allocated to the foundation were spent during the previous fiscal year. Such report shall contain the following information:

(i) How many applications were received;
(ii) How many applications the foundation granted;
(iii) The type of services and items that were funded; and
(iv) Statistical information, by gender, race, and division of the state, on who applied for and who received the funds;

(I) Whether members shall receive reasonable compensation for their service on the TennCare foundation will be determined at the discretion of the governor; members may be reimbursed for those expenses allowed by the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter;

(J) If any federal or state court or other tribunal with jurisdiction:

(i) Determines that any aspect of subdivision (f)(2)(A), (f)(2)(B), (f)(2)(C), (f)(2)(D), (f)(2)(E), or (f)(2)(G) violates federal law, state law, or any existing court order or consent decree, and
(ii) Makes effective an order enjoining compliance with any aspect of these provisions or requiring non-trivial changes in the terms or applications of these provisions,

the challenged provisions may not be severed from the remainder of this subdivision (f)(2). In this event, all provisions of this subdivision (f)(2) will terminate and have no further effect. Such termination shall occur no later than ninety (90) days after the effective date of the order unless such order is stayed by the issuing court or the reviewing court pending disposition of an appeal of the order. The decision whether or not to appeal any such order will be at the sole discretion of the bureau of TennCare. This nonseverability provision shall be self-executing. If this subdivision (f)(2) is terminated while appropriated funds remain, the unused funds shall revert back to the general fund. Any payments for services or items which have been approved but not yet disbursed as of the date of termination shall be paid, but no further applications for payments shall be considered or granted after the date of termination. In the event of termination under this subsection (f), the foundation may be reinstated only by new legislative action and a new appropriation by the general assembly.

(g) The bureau of TennCare shall have the authority, in collaboration with one or more medical schools located in Tennessee, to establish an evidence-based medicine initiative for the purpose of developing medical protocols and integrating standards of best practices within the delivery of TennCare services. To the extent that evidence-based medical protocols are authorized by the bureau of TennCare, such protocols shall satisfy the standard of medical necessity as set forth in § 71-5-144. The bureau of TennCare, through its
authority to promulgate rules and regulations, shall establish the parameters for the initiative, including who can participate and how the initiative is to be implemented.


(a) Medical assistance paid to, or on behalf of, any recipient cannot be recovered from a beneficiary unless such assistance has been incorrectly paid, or, unless the recipient or beneficiary recovers or is entitled to recover from a third party reimbursement for all or part of the costs of care or treatment for the injury or illness for which the medical assistance is paid. To the extent of payments of medical assistance, the state shall be subrogated to all rights of recovery, for the cost of care or treatment for the injury or illness for which medical assistance is provided, contractual or otherwise, of the recipients against any person. Medicaid payments to the provider of the medical services shall not be withdrawn or reduced to recover funds obtained by the recipient from third parties for medical services rendered by the provider if these funds were obtained without the knowledge or direct assistance of the provider of medical assistance. When the state asserts its right to subrogation, the state shall notify the recipients in language understandable to all recipients, of recipient's rights of recovery against third parties and that recipient should seek the advice of an attorney regarding those rights of recovery to which recipient may be entitled. If, while receiving assistance, the recipient becomes possessed of any resource or income in excess of the amount stated in the application provided for in this part, it shall be the duty of the recipient immediately to notify the agency designated to determine eligibility under this part of the receipt or possession of such resource or income. When it is found that any person has failed to so notify the agency that such person is or was possessed of any resource or income in excess of the amount allowed or when it is found that, within five (5) years prior to the date of recipient's application, a recipient made an assignment or transfer of property for the purpose of rendering the recipient eligible for assistance under this part, any amount of assistance paid in excess of the amount to which the recipient was entitled shall constitute benefits incorrectly paid. Any benefits incorrectly paid shall be recoverable from the recipient, while living, as a debt due to the state and, upon the recipient’s death, as a claim classified with taxes having preference under the laws of this state.

(b) Upon accepting medical assistance, the recipient shall be deemed to have made an assignment to the state of the right of third party insurance benefits to which the recipient may be entitled. Failure of the recipient to reimburse the state for medical assistance received from any third party insurance benefits received as a result of the illness or injury from which the medical assistance was paid may be grounds for removing the recipient from future participation in the benefits available under this part; provided, that any removal from participation shall be after appropriate advance notice to the
recipient and that the provider of service shall not be prevented from receiving payment from the state for medical assistance services previously furnished the recipient, and that nothing in this subsection (b) shall require an insurer to pay benefits to the state that have already been paid to the recipient.

(c)(1) For purposes of this subsection (c), “third party for medical services” or “third parties” includes, but is not limited to, a health and liability insurer, an administrator of an ERISA plan, an employee welfare benefit plan, a workers’ compensation plan, CHAMPUS, medicare, and other parties that are by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service.

(2)(A) The commissioner of finance and administration, the director of the bureau of TennCare, and individual managed care organizations under contract with the state are authorized to require certain information identifying persons covered by third parties for medical services. As a condition of doing business in the state or providing coverage to residents of this state, and subject to subdivision (c)(3), a third party for medical services shall, upon request from the commissioner, the director, or a managed care organization, but no less frequently than monthly, electronically provide full eligibility files that contain information to determine the period that the recipient, the recipient’s spouse, or the recipient’s dependents may be or may have been covered by the third party. The eligibility files shall also include the nature of the coverage that is or was provided by the third party, the name, address, date of birth, social security number, group number, identifying number of the plan, and effective and termination dates.

(B) No third party shall be liable to a policyholder for proper release of this information to the commissioner, the director, or managed care organization.

(C) The information shall be provided pursuant to a written request from the commissioner, the director, or managed care organization, with each third party establishing confidentiality requirements.

(3) Third parties shall respond to any inquiry by the state regarding a claim for payment for any health care item or service that is submitted not later than three (3) years after the date of the provision of such health care item or service.

(4) Third parties shall agree to respond to the request for payment, by providing payment on the claim, written request for additional information with which to process the claim, or written reason for denial of the claim, within ninety (90) working days after receipt of written proof of loss or claim for payment for health care services provided to a recipient of medical assistance who is covered by the entity. Notwithstanding title 56, a failure to pay or deny a claim within one hundred forty (140) days after receipt of the claim constitutes a waiver of any objection to the claim and an obligation to pay the claim.

(5) A payment made by a third party to the bureau or managed care organization under contract with the state shall be considered final thirty (30) months after payment is made. After that date, the amount of the payment is not subject to adjustment.

(6) A third party shall treat a managed care organization as the bureau, for the purposes of providing the managed care organization with access to third-party eligibility and claims data authorized under subdivision (c)(2);
complying with the assignment to the managed care organization of a
TennCare beneficiary's right to payment; and refraining from denying
reimbursement to the managed care organization, for a claim in which both
of the following apply:

(A) The beneficiary who is the subject of the claim received a medical
item or service through a managed care organization that has entered into
a contract with the bureau; and

(B) The bureau has delegated third party responsibilities to the man-
aged care organization.

(d)(1) To the extent necessary to reimburse the department for expenditures
for its costs for services provided for any child eligible for medical services
under Title XIX of the federal Social Security Act, compiled in 42 U.S.C.
§ 1396 et seq., the department shall have a right of action against, and shall
be permitted to garnish the wages, salary, or other employment income of,
any person who:

(A) Is required by a court or administrative order to provide coverage of
the costs of health services to a child who is eligible for medical assistance
under Title XIX of the federal Social Security Act;

(B) Has received payment from a third party for the costs of such
services provided to such child; and

(C) Has not used such payments from the third party to reimburse, as
appropriate, either the other parent or guardian of such child or the
provider of such services.

(2) The claims by the department for the costs of such services shall be
subordinate to any claims for current or past-due child support.

(e) The state's right of action under this section shall be authorized as part
of the contractual functions of the individual managed care organization or
organizations that incurred the medical expenses on behalf of a TennCare
recipient where the TennCare program deems appropriate. The bureau of
TennCare shall maintain an easily accessible and clearly identified Internet
web page, updated at least bi-annually, that identifies the individual managed
care organization or organizations having authorization to pursue the state's
right of action under this section and such Internet web page, at the minimum,
shall provide the appropriate manner, method and form for contacting the
managed care organization or organizations. The form made accessible
through such Internet web page shall be consistent with the requirements of
subsection (f).

(f) Before the entry of the judgment or settlement in a personal injury case,
the plaintiff's attorney shall notify and contact in writing by facsimile or
certified mail return receipt requested any entity acting pursuant to and
identified in accordance with subsection (e), in order to determine if the state
or managed care organization or organizations have a subrogation interest.
Notice by the plaintiff's attorney, at the minimum, shall provide the following
information: the full name of the plaintiff's client; the client's date of birth; the
client's social security number, if known; the client's TennCare or managed
care organization identification number; and the date the client's claim arose.
Notice by the plaintiff's attorney shall be consistent with the foregoing in order
to be considered valid. Within sixty (60) days of receipt of the above-referenced
notice, the entities having a subrogation interest shall respond to the plaintiff's
attorney in writing via facsimile or certified mail return receipt requested with
either the amount of the subrogation interest or advise the plaintiff's attorney
that additional time is necessary in order to determine the amount of the subrogation interest, but in no event shall a response containing the amount of the subrogation interest exceed one hundred twenty (120) days. The plaintiff's attorney shall then inform the court regarding the results of such attorney's notice, if any. Should no specific number be claimed within the period specified herein, the subrogation shall be extinguished and disbursements may be made without recourse upon the plaintiff or the plaintiff's attorney. If the plaintiff's attorney received a timely response from the entities acting pursuant to subsection (e), but the amount of the subrogation interest remains in disagreement, then the trial judge may hold a hearing in accordance with subsection (i). After trial and at the time of the entry of the judgment or settlement in a case in which the state or any entity acting pursuant to subsection (e) has a subrogation interest under this section, it is the responsibility of the trial judge to calculate the amount of the subrogation interest and incorporate the court's findings concerning the subrogation interest in the final judgment or settlement. The gross amount of the subrogation interest shall be based upon the findings of the jury concerning medical expenses and evidence introduced after the trial about the total sum of moneys paid by the state or any entity acting pursuant to subsection (e) for medical expenses for injuries arising from the incident that is the basis of the action. The gross amount of the subrogation interest shall be reduced by one (1) or more of the following factors, as applicable:

(1) To the extent that the plaintiff is partially at fault in the incident giving rise to the litigation, the subrogation interest is reduced by the percentage of fault assessed against the plaintiff;

(2) To the extent that the finder of fact allocated fault to a person who was immune from suit, the subrogation interest is reduced by the percentage of fault assessed against the immune person;

(3) To the extent that the finder of fact allocates fault to a governmental entity that has its liability limited under state law and the fault of the entity, when multiplied by the total dollar value of the damages found by the finder of fact, exceeds the amount of judgment that can be awarded against the entity, the subrogation interest is reduced proportionately by a percentage derived by dividing the uncollectable portion of the judgment against the governmental entity by the total damages awarded; or

(4) To the extent that the finder of fact allocated fault to a person that the plaintiff did not sue, the subrogation interest is reduced by the percentage of fault assessed against the nonparty.

(g) After these calculations are performed, the judge should further reduce the subrogation interest pro rata by the amount of reasonable attorneys' fees and litigation costs incurred by the plaintiff in obtaining the recovery as required in former subsection (c) [repealed].

(h) The amount determined after performance of the calculations in subsections (f) and (g) is the net subrogation interest. If the plaintiff or plaintiff's attorney collects the judgment, each has the obligation to promptly remit the net subrogation interest, and attorneys' fees and costs to any counsel employed by the state or its assignee, as required by the final judgment. In the event that the plaintiff and such plaintiff's attorney collect only a portion of the final judgment, each has the obligation to promptly remit a pro rata share of the net subrogation interest, and attorneys' fees and costs to any counsel employed by the state or its assignee, as required by the final judgment. In the event that
plaintiff or plaintiff’s attorney later collect additional moneys against the judgment, there is a continuing obligation on both of them to remit a pro rata share of the moneys collected as required by the final judgment.

(i) In the event that the case between the plaintiff and the defendant is settled before trial but after a lawsuit is filed and the parties and the state or its assignee are unable to reach an agreement on the amount of the subrogation interest, the trial judge shall hold a hearing to determine the gross and net subrogation interests, taking into account the criteria listed in subsections (f) and (g) and the likelihood of collecting any judgment against parties determined to be at fault. Any aggrieved party may appeal the court’s decision.

(j) It is the intention of the general assembly that subsections (f) through (i) be used in lieu of application of the “made whole” doctrine for any recovery authorized under this section. Subsections (f) through (i), inclusive, shall also apply to cases that have been settled when no lawsuit has been filed.

71-5-153. Verification of information. [Effective on December 1, 2017.]

(a) Prior to awarding assistance, and on a quarterly basis thereafter, the bureau of TennCare shall verify identity information for each respective applicant and enrollee against the following:

(1) Wage and income information maintained by state and federal sources;
(2) Immigration status information maintained by federal citizenship and immigration services; and
(3) Information maintained by the department of health, office of vital records.

(b) Subsection (a) shall not take effect until the last day of the first full quarter following implementation of an automated, electronic eligibility system by the bureau of TennCare. The bureau of TennCare shall notify the executive secretary of the code commission upon implementation of an automated, electronic eligibility system.


(a) Every managed care organization that participates in the TennCare program shall submit an annual report to the bureau of TennCare on or before March 1 of each year that contains the following information for enrollees in the TennCare program:

(1) The frequency with which the managed care organization required prior authorization for all prescribed procedures, services, or medications for mental health and alcoholism or drug dependence benefits during the previous calendar year and the frequency with which the managed care organization required prior authorization for all prescribed procedures, services, or medications for medical and surgical benefits during the previous calendar year. Managed care organizations must submit this information separately for inpatient benefits, outpatient benefits, emergency care benefits, and prescription drug benefits. Frequency shall be expressed as a percentage, with total prescribed procedures, services, or medications within each classification of benefits as the denominator and the overall number of times prior authorization was required for any prescribed procedures, services, or medications within each corresponding classification of benefits as the numerator;
(2) A description of the process used to develop or select the medical necessity criteria for mental health and alcoholism or drug dependence benefits and the process used to develop or select the medical necessity criteria for medical and surgical benefits;

(3) Identification of all non-quantitative treatment limitations (NQTLs) that are applied to both mental health and alcoholism or drug dependence benefits and medical and surgical benefits. There may be no separate NQTLs that apply to mental health and alcohol or drug dependence benefits but do not apply to medical and surgical benefits within any classification of benefits;

(4) The results of an analysis that demonstrates that for the medical necessity criteria described in subdivision (a)(2) and for each NQTL identified in subdivision (a)(3), as written and in operation, the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL to mental health and alcoholism or drug dependence benefits are comparable to, and are applied no more stringently than the processes, strategies, evidentiary standards, or other factors used to apply the medical necessity criteria and each NQTL, as written and in operation, to medical and surgical benefits. At a minimum, the results of the analysis shall:

(A) Identify the factors used to determine that an NQTL will apply to a benefit, including factors that were considered but rejected;

(B) Identify and define the specific evidentiary standards used to define the factors and any other evidentiary standards relied upon in designing each NQTL;

(C) Identify and describe methods and analyses used, including the results of the analyses, to determine that the processes and strategies used to design each NQTL as written for mental health and alcoholism or drug dependence benefits are comparable to and no more stringent than the processes and strategies used to design each NQTL as written for medical and surgical benefits;

(D) Identify and describe the methods and analyses used, including the results of the analyses, to determine that processes and strategies used to apply each NQTL in operation for mental health and alcoholism or drug dependence benefits are comparable to and no more stringent than the processes or strategies used to apply each NQTL in operation for medical and surgical benefits; and

(E) Disclose the specific findings and conclusions reached by the managed care organization demonstrating that the results of the analyses required by this subdivision (a)(4) indicate that the insurer or entity is in compliance with this section and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. No. 110-343) and its implementing regulations, which include 42 CFR 438.900, 42 CFR 438.905, 42 CFR 438.910, 42 CFR 438.915, 42 CFR 438.920, and 42 CFR 438.930 and any other relevant current or future rules;

(5) The rates of and reasons for denial of claims for inpatient, outpatient, prescription drugs, and emergency mental health and alcoholism or drug dependence services during the previous calendar year compared to the rates of, and reasons for, denial of claims in those same classifications of benefits for medical and surgical services during the previous calendar year;
and

(6) A certification signed by the managed care organization’s chief executive officer and chief medical officer that affirms that the managed care organization has completed a comprehensive review of its administrative practices for the prior calendar year for compliance with this section and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. No. 110-343).

(b) The bureau of TennCare shall monitor managed care organization claims denials for mental health and alcoholism or drug dependence benefits on the grounds of medical necessity within each classification of benefits among inpatient benefits, outpatient benefits, prescription drugs, and emergency care. The bureau of TennCare shall study and compare denial rates among each managed care organization and shall request additional data if significant discrepancies in denial rates are found.

71-5-155. Medication therapy management pilot program. [Effective until June 30, 2020.]

(a) As used in this section, unless the context otherwise requires:

(1) “Bureau” means the bureau of TennCare;

(2) “Collaborative pharmacy practice agreement” has the same meaning as defined in § 63-10-204;

(3) “Medication therapy management pilot program” means the test program established by the bureau of TennCare meeting the definition of the term “medication therapy management program” in § 63-10-204; and

(4) “Medication therapy management services” means the provision of direct patient care services by a pharmacist licensed under title 63, chapter 10 practicing in this state, to optimize the therapeutic outcomes of the patient’s medications. Medication therapy management encompasses a broad range of professional activities and responsibilities within the licensed pharmacist’s scope of practice. Medication therapy management services are independent of, but can occur in conjunction with, the provision of a medication product.

(b)(1) The bureau shall develop and implement a medication therapy management pilot program that seeks to provide high quality, cost-effective services in support of initiatives administered by the bureau to ensure optimal health outcomes for TennCare beneficiaries.

(2) Any managed care organization or pharmacy benefit manager that participates in the TennCare medication therapy management pilot program, as determined by the bureau, shall administer a medication therapy management pilot program that meets the program standards and eligibility criteria as established by the bureau.

(c)(1) The bureau shall establish program standards and eligibility criteria for the medication therapy management pilot program. Eligibility criteria may include use of specific medications, use of classes of medications, disease states, health conditions, mental health conditions, complex medical and drug-related needs, and other clinical factors, as determined by the bureau.

(2) Medication therapy management services shall be delivered by a participating qualified Tennessee-licensed pharmacist, as determined by the bureau, acting under a collaborative pharmacy practice agreement meeting
the requirements of § 63-10-217 and within the routine scope of the practice of pharmacy, as defined in § 63-10-204, and in consultation with patients, caregivers, prescribers, and other healthcare providers, as appropriate. Technical responsibilities related to medication therapy management services, other than the delivery of direct patient care services, such as obtaining accurate medication histories and records, scheduling visits, documentation, and billing for services, may be delegated to pharmacy technicians and other pharmacy personnel at the discretion of the pharmacist responsible for delivering the service.

3) Nothing in this section shall expand or modify the scope of the practice of pharmacy as defined in title 63, chapter 10, part 2.

(d)(1) The bureau shall establish reimbursement rates for medication therapy management services provided by pharmacists under a collaborative pharmacy practice agreement within the medication therapy management pilot program.

2) For purposes of reimbursement for medication therapy management services, the bureau, or its managed care organizations, may enroll individual pharmacists as providers under their medicaid provider program. The bureau may also establish contract requirements necessary to implement the pilot program.

(e) Any cost savings realized by the bureau through administration of the medication therapy management pilot program shall be prioritized for use in expanding the administration of the medication therapy management pilot program. Any expansion of the pilot program shall be determined by the bureau upon conclusion of the pilot program and after evaluation of the pilot program to determine overall impact to the program in terms of cost-effectiveness and medical outcomes.

(f) As part of the pilot program, the bureau may seek input from pharmacists, primary care providers, or other key stakeholders to provide technical assistance in the development and implementation of the bureau’s medication therapy management pilot program.

(g) The medication therapy management pilot program shall terminate on June 30, 2020.

71-5-156. Development of policy regarding births involving neonatal abstinence syndrome and opioid use by women of childbearing age.

(a) As used in this section:

1) “Bureau” means the bureau of TennCare; and

2) “Managed care organization” or “MCO” means a health maintenance organization, behavioral health organization, or managed health insurance issuer that participates in the TennCare program.

(b) The general assembly finds that issues raised by births of children with neonatal abstinence syndrome and the use of opioids by women of childbearing age constitute a critical problem for enrollees in the TennCare program, healthcare providers, the TennCare program, public health, and the fiscal well-being of the state.

(c) In order to address issues raised by births of children with neonatal abstinence syndrome and the use of opioids by women of childbearing age in the TennCare program, the bureau is directed to promptly fully review these issues and to develop an appropriate and accountable policy response that
includes both primary prevention and secondary prevention.

(d) On or before September 1, 2017, the bureau shall issue appropriate requests for information for program initiatives aimed at primary prevention and secondary prevention of births involving neonatal abstinence syndrome and the use of opioids by women of childbearing age enrolled in the TennCare program.

(e)(1) Each MCO that participates in the TennCare program shall provide the overall medical loss ratio for the MCO with respect to the TennCare program. The MCO shall also calculate a medical loss ratio with respect to expenditures associated with neonatal abstinence syndrome and the use of opioids by women of childbearing age enrolled in the TennCare program.

(2) For purposes of this subsection (e), “medical loss ratio” means the ratio of medical claims and quality improvement activities to the total funds received by the MCO from the bureau pursuant to its contractor risk agreement.

(f) Nothing in this section shall affect contracts in effect on the effective date of this act with the managed care organizations for program services related to opioid use by women of childbearing age enrolled in the TennCare program.

(g) The bureau shall report concerning the progress and implementation of the program authorized by this section to the speaker of the house of representatives, the speaker of the senate, the comptroller of the treasury, the chair of the health committee of the house of representatives, and the chair of the health and welfare committee of the senate beginning on September 1, 2017, and thereafter on a quarterly basis.

(h) The bureau shall recommend to the general assembly any legislation necessary to implement initiatives selected under subsection (g) on or before January 15, 2018.

(i) If the commissioner of finance and administration, in consultation with the bureau, determines that a federal waiver or an amendment to an existing federal waiver is necessary in order to implement initiatives under this section, the commissioner shall promptly apply for an appropriate waiver or waiver amendment to the United States department of health and human services.

71-5-157 — 71-5-159. [Reserved.]

71-5-304. Duties of department.

The department shall:

(1) Supervise the administration of the food stamp or food assistance program in this state for eligible recipients;

(2) Make uniform rules and regulations, not inconsistent with law, for carrying out and enforcing this part in an efficient, economical and impartial manner, to the end that the food stamp or food assistance program may be administered uniformly in all counties of this state that have been designated by the United States secretary of agriculture to participate in the food stamp or food assistance program and in which counties a food stamp or food assistance program is currently in operation;

(3) Establish state-wide standards for determining the amount of food stamp assistance or food assistance any person, household or family shall receive under this part;
(4) Cooperate with the secretary of the United States department of agriculture, or any federal officer or agency made successor to the department of agriculture, in any reasonable manner as may be necessary to qualify for federal aid for food stamp assistance or food assistance in conformity with this part, including the making of such reports in such form and containing such information as the secretary of agriculture, or any federal officer or agency made successor to the department of agriculture, may from time to time require, and comply with such provisions as such secretary may from time to time find necessary to assure the correctness and verification of such reports;

(5) Establish and enforce safeguards to prevent unauthorized disclosures or improper use of information contained in applications, reports of investigations, and correspondence in the individual case records of recipients of food coupons, food stamps or food assistance transferred electronically or by other means; and

(6) Adopt rules and regulations for the implementation of a sliding scale of benefit reduction for individuals receiving food coupons, food stamps or food assistance transferred electronically or by other means for six (6) months or longer in which benefits do not abruptly terminate when a recipient earns above a certain maximum amount, but instead, such benefits gradually lessen in increments of twenty-five percent (25%) of the individual’s total benefit every three (3) months; provided, that no rules and regulations shall conflict with federal legislation or provide benefits exceeding federal maximum income guidelines, and no such rules and regulations shall be promulgated that shall cause a decrease or suspension of federal funding. This subdivision (6) shall take effect only to the extent that such provisions are consistent with federal laws and regulations governing the temporary assistance for needy families (TANF) and food stamp or food assistance programs and only to the extent federal financial participation under such programs is available therefor.

71-5-316. Data matches. [Effective on December 1, 2017.]

(a) On at least a quarterly basis, the department of human services shall conduct data matches against information databases as required by federal law, including the following:

(1) Earned and unearned income information maintained by the federal internal revenue service;

(2) Employer reports of income and unemployment insurance payment information maintained by the federal department of labor;

(3) Earned income information maintained by the federal social security administration;

(4) Death register information maintained by the federal social security administration;

(5) Prisoner information maintained by the federal social security administration;

(6) Beneficiary records and earnings information maintained by the federal social security administration;

(7) Employment information maintained by the Tennessee department of labor and workforce development;

(8) Employment information regarding new hires maintained by the
federal department of health and human services;

(9) Supplemental security income information maintained by the federal social security administration; and

(10) Veterans' benefits information maintained by the federal department of health and human services, in coordination with the Tennessee department of health and Tennessee department of veterans services.

(b) The department of human services may explore joining any multi-state cooperative for identifying individuals who currently receive benefits in other states, such as the National Accuracy Clearinghouse.

71-5-1002. Legislative intent — Creation of nursing home assessment trust fund.

(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of providing nursing home care. The assessment fee imposed by this part shall be in addition to all other privilege taxes.

(b) The nursing home assessment trust fund is created. The general assembly intends that the proceeds of the annual assessment not be used as a justification to reduce or eliminate the state funding to the TennCare program. The fund shall not be used to replace any moneys otherwise appropriated to the TennCare program by the general assembly.

(c) The trust fund shall consist of:

(1) Amounts collected or received by the bureau from nursing home assessments under this part;

(2) Investment earnings credited to the assets of the nursing home assessment trust fund. The state treasurer shall invest amounts deposited within the account in accordance with law, and all investment earnings shall be credited back to the fund; and

(3) Any penalties levied in conjunction with the administration of this part.

(d) The trust fund is created for the purpose of receiving funds as specified in this section. Collected assessment funds shall be used to secure federal matching funds available through the state medicaid plan.

(e) All revenue collected pursuant to this part shall be deposited in the nursing home assessment trust fund.

(f) All nursing home annual assessment fee payments made by nursing homes under this section and received by this state; all investment earnings credited to the nursing home annual assessment fee payments; any interest and penalties paid under this section by any nursing home; and all funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be available to and used by the bureau of TennCare for the sole purpose of providing payment to nursing homes.

(g) No part of the nursing home annual assessment fee payments made by nursing homes under this section and received by this state; the investment earnings credited to the nursing home annual assessment fee payments; the interest and penalties paid under this section by any nursing home; or the funds generated by federal matching payments made relative to the nursing home annual assessment fee shall be used for any purpose other than providing payment to nursing homes.

(h) The fund shall be used exclusively for the following purposes:
(1) To make expenditures for nursing facility services under the TennCare program for FY 2017-2018 at the full rates for the specified fiscal year as set in accordance with § 71-5-105(a)(3)(B)-(D);

(2) To make medicaid payments for nursing facility services which exceed the amount of full nursing home medicaid rates, as calculated in accordance with the approved state medicaid plan in effect on July 1, 2014, including but not limited to a supplemental transitional payment to nursing facilities for the transition to an acuity based reimbursement system;

(3) To provide funding for the implementation of that acuity-based reimbursement system upon implementation of an acuity-based reimbursement system, that shall include at a minimum a quality performance component for nursing facility services and a nursing rate component. The nursing rate component shall be adjusted by the average medicaid case-mix of the facility utilizing the Skilled Nursing Facility (SNF) Prospective Payment System (PPS) Resource Utilization Group-Version 4 (RUG-IV), 48-Grouper model; and

(4) To pay nursing home covered services covered for medicaid beneficiaries within medicare upper payment limits, as negotiated with the bureau. The upper payment limit of all nursing homes shall be calculated by the bureau using the higher of the cost based or prospective payment system approach in accordance with 42 C.F.R. 447.272.

(i) Any funds remaining in the nursing home assessment trust fund after payments are made as provided for in subsection (h) shall remain in the trust fund as a reserve for future uses consistent with subsection (h). If the funds in the nursing home assessment trust fund are insufficient to meet all the purposes established in § 71-5-1004(b), the bureau of TennCare shall not be required to procure additional funding from other sources to make the payments noted in § 71-5-1004(b), but instead shall be permitted to reduce all payments on a pro rata basis so as not to exceed the amounts held at any time in the nursing home assessment trust fund.

71-5-1003. Payment of assessments — Determination of rate — Time for payment.

(a) Each nursing home shall pay the nursing home assessment in quarterly installments to the account in accordance with this part. In the event of a change of ownership or management of a nursing facility, the successor entity shall be liable for all unpaid nursing home assessment fees, penalties, and interest, and full payment of those fees, penalties, and interest shall be a precondition to the successor entity obtaining a TennCare identification number.

(b) The aggregated amount of assessments for all nursing facilities during a fiscal year shall not be less than the amount necessary to fund the provisions of this part or exceed the maximum amount that may be assessed pursuant to the indirect guarantee threshold as established pursuant to 42 C.F.R. 433.68(f)(3)(i). The bureau shall determine the assessment rate prospectively for the applicable fiscal year on a per-resident-day basis, exclusive of medicare resident days. The per-resident day assessment rate shall be established pursuant to subsection (c). The bureau shall promulgate rules for facility reporting of non-medicare resident days and for payment of the assessment.

(c) The total aggregated amount of assessments for all nursing facilities
from July 1, 2017, through June 30, 2018, shall equal four and three-quarters percent (4.75%) of the net patient service revenue. The total aggregated amount of assessment for all nursing facilities, and the annual assessment determined for each nursing facility, shall be established on July 1st of each year. Once established, neither amount shall vary during each fiscal year. Each nursing facility shall have an annual assessment amount that shall be determined as follows:

(1) Any licensed nursing home that is licensed on July 1, 2017, for fifty (50) beds or fewer shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(2) Any licensed nursing home that on July 1, 2017, operates as part of a continuing care retirement community shall pay an assessment rate equal to three percent (3%) of net patient service revenue, divided by all non-medicare days. The facility shall pay the per diem rate for each of its non-medicare days;

(3) Any licensed nursing home providing fifty thousand (50,000) or greater medicaid patient days for the twelve (12) months ending December 31 of the prior year shall pay an assessment of two thousand two hundred twenty-five dollars ($2,225) per licensed bed per year. The facility shall pay the per bed rate on all beds licensed as of July 1 of each year. This annual nursing home assessment fee, the high-volume medicaid threshold, or both can be modified if necessary to meet the redistribution test of 42 CFR 433.68(e)(2);

(4) Any new nursing home facility that is initially licensed and commences operations after July 1, 2017, shall pay in FY 2017-2018 a prorated assessment equal to two thousand two hundred twenty-five dollars ($2,225) per licensed bed per year, prorated to accrue from the date the nursing facility became certified to participate in TennCare. The change in ownership of an existing licensed facility shall not meet the requirements of this subdivision (c)(4);

(5) Any licensed nursing home not meeting the criteria of subdivisions (c)(1)-(4) shall pay an equal per facility annual assessment amount at such amount as is necessary to ensure that the total aggregated amount of assessment for all nursing facilities from July 1, 2017, through June 30, 2018, shall equal four and three-quarters percent (4.75%) of the net patient service revenue, when such total aggregated assessment amount is established on July 1st of each year;

(6) Any excess collections of per facility annual assessments above the targeted four and three-quarters percent (4.75%) of the net patient service revenue shall be retained in the nursing home assessment trust fund account created under this part. Should actual collections of per facility annual assessments not equal the targeted four and three-quarters percent (4.75%) of the net patient service revenue, any shortfall may be made up from funds in the nursing home assessment trust fund account created under this part, or from other appropriations to the TennCare program; and

(7) Any facility that ceases to be licensed by the department of health shall not be required to pay assessment fees accruing after the date of its licensure termination.

(d) Each nursing home shall pay its nursing home annual assessment fee as set forth in subsection (c) in equal quarterly installments, with the first
quarterly installment due on the fifteenth day of the first month of the first
quarter of the state fiscal year after the bureau of TennCare has satisfied the
requirements of subsection (f). Subsequent installments shall be due on the
fifteenth day of the first month of the three (3) successive calendar quarters
following the calendar quarter in which the first installment is due.

(e) Nursing homes shall not create a separate line-item charge on the bill
reflecting the assessment.

(f) The annual assessment imposed by this part shall not be effective and
validly imposed until the bureau:

(1) Has provided to the Tennessee Health Care Association written notice
that includes a determination from the Centers for Medicare and Medicaid
Services (CMS) that the annual assessment is a permissible source of
revenue that shall not adversely affect the amount of federal financial
participation in the TennCare program; and

(2) Has provided evidence that the bureau of TennCare will implement an
acuity-based reimbursement methodology for nursing facility care developed
in consultation with the Tennessee Health Care Association.

71-5-1004. Supplement transitional payments by TennCare to nursing
facilities — Allocation of funds.

(a) Upon enactment of the assessment fee pursuant to this part, the bureau
of TennCare shall make increased payments to nursing facilities for FY
2017-2018 as part of a transition to a full acuity-based reimbursement system.

(b)(1) During FY 2017-2018, the bureau of TennCare shall make a supple-
mental transitional payment to nursing facilities for the transition to an
acuity-based reimbursement system, which exceeds the amount of nursing
home medicaid rates, in the aggregate, as calculated in accordance with the
approved state medicaid plan in effect on July 1, 2017.

(2) The total aggregated amount of funds available for this supplemental
payment shall be equal to the difference between:

(A) The aggregated amount of nursing home trust fund assessments
scheduled to be paid by all nursing homes during FY 2017-2018; and

(B) The total amount of nursing home privilege tax paid by all nursing
homes during FY 2013-2014.

(c) The supplemental transitional payments shall be allocated as follows, in
consultation with the Tennessee Health Care Association:

(1) Thirty-three and one third percent (33\(\frac{1}{3}\)%%) allocated in the same
manner as the FY 2014-2015 acuity payment;

(2) Thirty-three and one third percent (33\(\frac{1}{3}\)%%) allocated strictly based on
medicaid day-weighted CMI score; and

(3) Thirty-three and one third percent (33\(\frac{1}{3}\)%%) allocated based on quality
measures adopted by the bureau of TennCare and the Tennessee Health
Care Association.

71-5-1005. Bureau to seek federal approvals if necessary — Bureau
authorized to adopt rules and regulations to implement
part.

(a) The bureau shall seek necessary federal approval in the form of state
plan amendments in order to implement this part, if it determined such
approvals are necessary.

(b) The bureau is authorized to adopt rules and regulations necessary to
implement this part or obtain approval of the state plan amendments. However, § 71-5-1413 shall constitute the exclusive authority for rulemaking by the bureau of TennCare regarding the transition to an acuity-based nursing home reimbursement system when both acuity and quality supplemental transition payments as described in § 71-5-1004 are transitioned into the medicaid per diem rates of that nursing home reimbursement system.

71-5-1006. Penalties for late payment — Payment plan — Proceedings before board — Waiver of penalties — Fees in abeyance.

(a) If any part of any assessment fee imposed by § 71-5-1003 is not paid on or before the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added to such assessment fee. Thereafter, on the first day of each month during which any part of any assessment fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added to such assessment fee or prior accrued penalty. Payment shall be deemed to have been made upon date of deposit in the United States mail.

(b) The bureau of TennCare may for good cause approve an alternative payment plan, as long as full payment of the assessment fee plus any penalties are made. So long as the facility is current with payment of the current assessment and any authorized payment plan approved by the bureau of TennCare, no further penalties will be applied. Any payments after a penalty is assessed under this section shall be credited first to unpaid assessment amounts rather than to penalty amounts, beginning with the most delinquent installment. The bureau of TennCare may, as part of an approved payment plan, waive, in whole or in part, any penalty or interest imposed under this section. A waiver shall excuse the payment of that penalty or interest amount but shall not excuse payment of any assessments. Nothing in this section shall require the bureau of TennCare to agree to or approve any waiver under this section, and the waivers shall only be approved after the bureau’s determination that there is good cause for the waiver.

(c)(1) If a nursing facility fails to pay a quarterly installment of the nursing home assessment fee within thirty (30) days of its due date or becomes or is in arrears for payment of its nursing home assessment fee on July 1, 2017, and does not have an approved payment plan for which payments are current, the bureau of TennCare shall direct its contracted managed care organizations (MCOs) to recover the full amount of the then-outstanding nursing home assessment fee and any applicable penalties and interest, which shall be accomplished through recoupment from payments made by the MCOs to nursing facilities to recover the full amount of the then-outstanding nursing home assessment fee and any related penalties and interest. TennCare MCOs shall remit promptly any of these recouped payments to the bureau of TennCare. The bureau of TennCare may recoup such amounts in as few or as many installment payments as it deems appropriate.

(2) If a nursing facility is more than ninety (90) days delinquent in paying any installment of its annual nursing home assessment fee; or becomes delinquent in any approved payment plan by more than ninety (90) days or fails to provide timely payment of any and all subsequent quarterly installments of its annual nursing home assessment fee while past due amounts are being recouped pursuant to subdivision (c)(1), the bureau of
TennCare shall:

(A) Initiate a proceeding before the board for licensing health care facilities, in accordance with the Uniform Administrative Procedures Act, for the purpose of having the board indefinitely suspend admissions to the facility until all outstanding nursing home assessment fees and applicable penalties and interest have been repaid. Failure of a nursing facility to pay a quarterly installment of the nursing home assessment fee, or any penalties or interest required to be paid by this part, shall be considered by the board to be a license deficiency; and

(B) Initiate proceedings to terminate the nursing facility’s TennCare identification number.

(3) Upon initiation of a proceeding before the board for licensing health-care facilities by the bureau of TennCare pursuant to subdivision (c)(2), the board shall suspend admissions to the facility after the bureau of TennCare meets the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(3) in the proceeding. Immediately following the full payment by the facility, or its successor, of all then-outstanding assessment fees and any applicable penalties and interest, any suspension of admissions to the nursing facility imposed according to this section shall be automatically lifted without requiring further action by the board, so long as the full payment of then-outstanding amounts are made within the sixty (60) days immediately following the date of the suspension of admissions.

(4) On or after the sixtieth day following the date of suspension of admissions to the nursing facility if either the nursing facility fails to pay all then-outstanding nursing home assessment fees and any applicable penalties and interest accrued thereon or the nursing facility fails to be current on the terms of its payment plan if a plan is in place, then the bureau of TennCare shall initiate proceedings before the board for licensing healthcare facilities in accordance with the Uniform Administrative Procedures Act for the purpose of revoking the nursing facility’s license. Upon initiation of a proceeding before the board by the bureau of TennCare pursuant to this subdivision (c)(4), the board shall revoke the nursing facility’s license upon the bureau of TennCare meeting the burden of proof required by the Uniform Administrative Procedures Act. The board shall have no discretion to impose any sanction or take any action other than that set out in this subdivision (c)(4) in the proceeding.

(5) Revocation of either the nursing facility’s license or the nursing facility’s TennCare identification number shall not remedy, discharge, satisfy, or otherwise extinguish the nursing facility’s liability for the then-outstanding nursing home assessment fees and any related penalties and interest.

(6) Upon revocation of the nursing facility’s license or termination of the nursing facility’s TennCare identification number, the nursing facility shall be required to reapply for a license, TennCare identification number, or both the license and the identification number, in order to provide services to the TennCare population. As a condition of reapplication, the nursing facility, or its successor shall pay in full all then-outstanding nursing home assessment fees, penalties, and interest.

(7) Notwithstanding this part, the bureau of TennCare is authorized to file a civil action against a covered nursing facility and its controlling person
or persons to collect any nursing home assessment fees, penalties, and interest when such fees, penalties, and interest have been delinquent for more than ninety (90) days. The bureau of TennCare shall have the right to pursue a civil action pursuant to this subdivision (c)(7) simultaneously while pursuing actions in subdivisions (c)(2) and (4). The bureau of TennCare shall be entitled to receive, in addition to the nursing home assessment fees, penalties, and interest, all reasonable costs of litigation, including attorneys’ fees and court costs, incurred by it in bringing a civil action under this subdivision (c)(7). Exclusive jurisdiction and venue for a civil action authorized in this subdivision (c)(7) shall be in the chancery court for Davidson County. For the purposes of this subdivision (c)(7), “controlling person or persons” means any and all natural persons or entities that own more than fifty percent (50%) of the nursing facility, or the natural person or persons, entity or entities that is or are the majority owner of the nursing facility if no owner owns more than fifty percent (50%) of the nursing facility.

(d) Unless otherwise agreed to by the bureau of TennCare and the nursing facility, full payment to the bureau of TennCare of any outstanding nursing home assessment fees, and any applicable penalties and interest, shall be required for the continuation of the nursing facility’s ongoing certification as a medicaid provider.

(e)(1) Any facility that is delinquent on the payment of its nursing home annual assessment fee as provided for in § 68-11-216 as of July 16, 2014, must establish a payment plan as provided for in this section.

(2) If a facility has established a payment plan concerning the delinquency that has been approved by the bureau of TennCare by August 15, 2014, all fees and penalties imposed by this section shall not be imposed so long as the facility is current with its payment plan, and no interest shall accrue on any balance unpaid as of July 1, 2014.

(3) If a facility has not established a payment plan approved by the bureau of TennCare by August 15, 2014, the bureau shall have the authority to recoup the amount of any supplemental transitional payments as provided for in § 71-5-1004(b)(2)(A)-(C) (now (c)(1)-(3)), and such amounts shall be applied to reduce the unpaid balance of any nursing home assessment fees owed by the facility.

(f) Any licensed facility that changes its licensure status to inactive status pursuant to § 68-11-206(b) shall be entitled to request that its nursing home annual assessment fee be held in abeyance until such time as the facility returns to active status, at which time the facility shall resume payment of the annual assessment fee that was held in abeyance. During the abeyance because of inactive status, the facility shall not be determined to be delinquent pursuant to this section. Nothing in this subsection (f) shall operate to excuse any licensee from the payment of its nursing home annual assessment fee.

71-5-1413. Acuity-based reimbursement methodology for nursing facility services.

(a) The commissioner shall develop and implement an acuity-based reimbursement methodology for nursing facility services, based on an individualized assessment of need, as an alternative to the current cost-based nursing facility reimbursement system.

(b) The methodology may include, but is not limited to, the development of
enhanced rates for specified chronic care services that may encourage the establishment of chronic care units that specialize in the care of persons with specified chronic care conditions, such as persons who are ventilator-dependent.

(c) The acuity-based reimbursement methodology for nursing facility services shall be implemented over a period not to exceed two (2) years from the initial date of implementation of such system or three (3) years from July 1, 2008, pursuant to a methodology established in regulations promulgated by the commissioner.

(d) The comptroller of the treasury shall set the medicaid rates for nursing facility services under the existing cost-based nursing facility reimbursement system and any acuity-based reimbursement system developed pursuant to this section and adopted by the bureau of TennCare in a rulemaking hearing in which interested persons may provide testimony under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. To the extent possible, any acuity-based reimbursement system shall be implemented in conjunction with the implementation of § 71-5-1407. Nothing in this section shall prevent TennCare from implementing rate adjustments as required pursuant to an act (including an annual appropriation act) of the general assembly that requires such adjustment. Nor shall TennCare be required to promulgate a rule to implement rate adjustments that are required pursuant to an act of the general assembly, unless such implementation requires a change in the underlying rate methodology.

(e) When both acuity and quality supplemental transition payments as described in § 71-5-1004 are transitioned into the medicaid per diem rates of the nursing home reimbursement system, the bureau of TennCare is authorized to adopt rules necessary to implement a new nursing home reimbursement system, subject to the following limitations:

1. Any rules promulgated by the bureau of TennCare under this subsection (e) shall be developed in consultation with the comptroller of the treasury and with the Tennessee Health Care Association; and
2. Any rules or regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, however, that the bureau of TennCare shall not promulgate emergency rules under this subsection (e) as authorized in § 4-5-208.

(f) Under any TennCare dual-eligible demonstration project, skilled nursing facilities shall be reimbursed for medicare skilled nursing facility services in an amount that is consistent with the net payment they would have received for the service absent such demonstration in a medicare fee-for-service system, taking together the primary payment by medicare and the secondary payment of cost sharing by medicaid, in accordance with the institutional crossover payment methodology set forth in the medicaid state plan. Nursing facilities participating in any TennCare dual-eligible demonstration project shall be reimbursed for medicaid nursing facility services in a manner that is consistent with the methodology for medicaid nursing facility services delivered outside the demonstration. Nothing in this section shall prevent a skilled nursing facility or nursing facility from agreeing, at its own discretion, to contract with an MCO under any alternative payment methodology including, but not limited to, shared risk or savings arrangements or quality incentive payments that may be offered under such dual demonstration in order to promote evidence-based best practices and to engage the facility in key quality
improvements, such as reduced avoidable hospital admissions and reduced hospital readmissions.

71-5-1501. Short title. [Effective until June 30, 2018.]

This part shall be known and may be cited as the “Ground Ambulance Service Provider Assessment Act.”

71-5-1502. Part definitions. [Effective until June 30, 2018.]

As used in this part:
   (1) “Ambulance service” means ground ambulance service as defined in the Medicare Benefit Policy Manual Chapter 10 — Ambulance Services item 30.1.1 — Ground Ambulance Services;
   (2) “Assessment” means the medicaid ambulance provider assessment established by this part;
   (3) “Bureau” means the bureau of TennCare;
   (4) “Commissioner” means the commissioner of finance and administration;
   (5) “Division” means the division of emergency medical services of the department of health; and
   (6) “Non-federal portion” means the non-federal share the bureau needs to fund amounts that will support fee-for-service ambulance provider rates, as described in § 71-5-1505.

71-5-1503. Payment of assessment. [Effective until June 30, 2018.]

(a) An ambulance service shall pay an assessment to the bureau:
   (1) In accordance with this part;
   (2) In the amount designated in § 71-5-1504;
   (3) Quarterly, on a day determined by the division by rule made in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and
   (4) No more than thirty (30) business days after the day on which the division issues the ambulance service notice of the assessment.

(b) The bureau shall:
   (1) Determine, by rule, the standards and procedures used to implement and enforce this part;
   (2) Collect the assessment described in subsection (a); and
   (3) Transfer assessment proceeds to the state treasurer for deposit into the ambulance service assessment revenue fund created in § 71-5-1507.

(c) An ambulance service shall not increase charges or add a surcharge to ground transports based on, or as a result of, the assessment described in subsection (a).

71-5-1504. Uniform assessment per ground transport. [Effective until June 30, 2018.]

(a) The bureau shall calculate a uniform assessment per ground transport pursuant to subsection (b).

(b) The assessment due from a given ambulance service equals the non-federal portion divided by total state-wide ground transports, multiplied by the
number of ground transports for the ambulance service provider.

(c) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance services.

(d) The assessment shall not generate more than the sum of:
   1. An annual amount of seventy-five thousand dollars ($75,000) to offset medicaid administration expenses; and
   2. The non-federal portion.

(e) (1) For each state fiscal year, the bureau shall calculate total ground transports using data from the division as follows:
   A. For the state fiscal year beginning July 1, 2017, the bureau shall use ambulance service transport data for the 2016 calendar year; and
   B. For each state fiscal year after the 2017-2018 fiscal year, the bureau shall use ambulance service transport data for the calendar year ending eighteen (18) months before the end of the respective fiscal year.

(2) No more than one hundred eighty (180) days after the end of each calendar year, each ambulance service shall submit transport information to the division. If an ambulance service fails to submit transport information to the division, the division may audit the ambulance service to determine the ambulance service’s transports for a given period.

71-5-1505. Reimbursement of ambulance service that provided qualifying ground ambulance service transports. [Effective until June 30, 2018.]

Upon approval by the centers for medicare and medicaid services of the assessment imposed by this chapter for fee-for-service rates effective on or after July 1, 2017, the bureau shall reimburse each ambulance service that provided qualifying ground ambulance service transports during the relevant assessment period in an amount not to exceed the emergency medical services ambulance rates adopted annually by the bureau.

71-5-1506. Penalty. [Effective until June 30, 2018.]

The bureau shall require an ambulance service that fails to pay an assessment due under this part to pay the bureau, in addition to the assessment, a penalty determined by the division by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

71-5-1507. Ambulance service assessment revenue fund. [Effective until June 30, 2018.]

(a) There is created a special agency account in the state general fund to be known as the “ambulance service assessment revenue fund,” referred to in this part as the “fund.”

(b) Unless otherwise specified in this part, revenue generated from the following sources shall be deposited in the fund:
   1. Assessments collected by the bureau under this part;
   2. Penalties collected by the bureau under this part;
   3. Donations to the fund from private sources; and
(4) Appropriations by the general assembly.

(c) Any fund balance remaining unexpended at the end of a fiscal year carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(d) Interest accruing on investments and deposits of the fund carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(e) The state treasurer shall invest the moneys in the fund in accordance with the provisions of § 9-4-603. The bureau shall administer the funds.

(f) Moneys in the fund shall not be diverted to the general fund or any other public fund, and moneys in the fund may only be used to:

1. Support fee-for-service rates for ground ambulance services;
2. Reimburse money to an ambulance service that is erroneously collected by the bureau from the ambulance service under this part; or
3. Reimburse the bureau in the amount designated in § 71-5-1504(d)(1) for the purpose of administrative expenses.

(g) In the event that this part is rendered invalid and void:

1. To the extent federal matching is not reduced due to the impermissibility of the assessments, the bureau shall disburse pursuant to subsection (f) the moneys remaining in the fund that were derived from assessments imposed by this part and deposited before the occurrence of the invalidating event; and
2. Following disbursement of moneys in the fund pursuant to subdivision (g)(1), the bureau shall refund any remaining moneys to each ambulance service provider in proportion to the amount paid by the respective provider during the most recently completed quarterly payment period.

71-5-1508. Implementation. [Effective until June 30, 2018.]

(a) The assessment in this part shall not be implemented until after the commissioner receives notice from the centers for medicare and medicaid services that federal matching fund approval for the assessment is granted.

(b) The commissioner shall implement this part to the extent that it is not inconsistent with the TennCare II federal waiver or any successor federal waiver.

(c) Within ninety (90) days after July 1, 2017, the commissioner shall determine whether an amendment to the TennCare II waiver or any successor federal waiver is required to implement this part. If the commissioner determines that an amendment to the TennCare II federal waiver or any successor federal waiver is necessary, the commissioner is authorized to seek any necessary waiver amendment and the assessment in this part shall not take effect until the waiver amendment is approved.

(d) The ground ambulance service provider assessment established by this part shall terminate on June 30, 2018.

71-5-1509. Promulgation of rules. [Effective until June 30, 2018.]

The commissioner is authorized to promulgate rules to effectuate the purposes of this part. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.
71-5-1601. Short title. [Effective until June 30, 2018.]

This part shall be known and may be cited as the “Annual Coverage Assessment Act of 2017.”

71-5-1602. Part definitions. [Effective until June 30, 2018.]

As used in this part, unless the context otherwise requires:

(1) “Annual coverage assessment” means the annual assessment imposed on covered hospitals as set forth in this part;

(2) “Annual coverage assessment base” is a covered hospital's net patient revenue as shown in its medicare cost report for its fiscal year that ended during calendar year 2008, on file with CMS as of September 30, 2009, subject to the following qualifications:

(A) If a covered hospital does not have a full twelve-month medicare cost report for 2008 on file with CMS but has a full twelve-month cost report for a subsequent year, the first full twelve-month medicare cost report for a year following 2008 on file with CMS shall be the annual coverage assessment base;

(B) If a covered hospital was first licensed in 2014 or later and did not replace an existing hospital, and if the hospital has a medicare cost report on file with CMS, the hospital’s initial cost report on file with CMS shall be the base for the hospital assessment. If the hospital does not have an initial cost report on file with CMS but does have a complete twelve-month joint annual report filed with the department of health, the net patient revenue from the twelve-month joint annual report shall be the annual coverage assessment base. If the hospital does not have a medicare cost report or a full twelve-month joint annual report filed with the department of health, the annual coverage assessment base is the covered hospital's projected net patient revenue for its first full year of operation as shown in its certificate of need application filed with the health services and development agency;

(C) If a covered hospital was first licensed in 2014 or later and replaced an existing hospital, the annual coverage assessment base shall be the hospital's initial medicare cost report on file with CMS. If the hospital does not have a medicare cost report on file with CMS, such hospital's annual coverage assessment base shall be either the predecessor hospital's net patient revenue as shown in its medicare cost report for its fiscal year that ended during calendar year 2008, or, if the predecessor hospital does not have a 2008 medicare cost report, the cost report for the first fiscal year following 2008 on file with CMS;

(D) If a covered hospital is not required to file an annual medicare cost report with CMS, then the hospital's annual coverage assessment base shall be its net patient revenue for the fiscal year ending during calendar year 2008 or the first fiscal year that the hospital was in operation after 2008 as shown in the covered hospital's joint annual report filed with the department of health; and

(E) If a covered hospital's fiscal year 2008 medicare cost report is not contained in any of the CMS healthcare cost report information system files and if the hospital does not meet any of the other qualifications listed in subdivisions (2)(A)-(D), then the hospital shall submit a copy of the hospital's 2008 medicare cost report to the bureau in order to allow for the determination of the hospital's net patient revenue for the state fiscal year.
2017-2018 annual coverage assessment;
(3) “Bureau” means the bureau of TennCare;
(4) “CMS” means the federal centers for medicare and medicaid services;
(5) “Controlling person” means a person who, by ownership, contract, or otherwise, has the authority to control the business operations of a covered hospital. Indirect or direct ownership of ten percent (10%) or more of a covered hospital shall constitute control;
(6) “Covered hospital” means a hospital licensed under title 33 or title 68, as of July 1, 2017, except an excluded hospital;
(7) “Excluded hospital” means:
   (A) A hospital that has been designated by CMS as a critical access hospital;
   (B) A mental health hospital owned by this state;
   (C) A hospital providing primarily rehabilitative or long-term acute care services;
   (D) A children’s research hospital that does not charge patients for services beyond that reimbursed by third-party payers; and
   (E) A hospital that is determined by the bureau as eligible to certify public expenditures for the purpose of securing federal medical assistance percentage payments;
(8) “Medicare cost report” means CMS-2552-96, the cost report for electronic filing of hospitals, for the period applicable as set forth in this section; and
(9) “Net patient revenue” means the amount calculated in accordance with generally accepted accounting principles for hospitals that is reported on Worksheet G-3, Column 1, Line 3, of the 2008 medicare cost report excluding long-term care inpatient ancillary revenues, or, in the case of a hospital that did not file a 2008 medicare cost report, comparable data from the first complete cost report filed after 2008 by such hospital.

[Effective until June 30, 2018.]

(a) There is imposed on each covered hospital licensed as of July 1, 2017, an annual coverage assessment for fiscal year (FY) 2017-2018 as set forth in this part.
(b) The annual coverage assessment imposed by this part shall not be effective and validly imposed until the bureau has provided the Tennessee Hospital Association with written notice that includes:
   (1) A determination from CMS that the annual coverage assessment is a permissible source of revenue that shall not adversely affect the amount of federal financial participation in the TennCare program;
   (2) Either:
      (A) Approval from CMS for the distribution of the full amount of directed payments to hospitals to offset unreimbursed TennCare costs as defined in § 71-5-1605(d)(2), provided that no assessment installment shall be collected prior to the distribution of the installment of such directed payments;
      (B) Approval from CMS for the distribution of the full amount of funds for uncompensated hospital costs set forth in the extension of the section 1115 demonstration project effective December 16, 2016, provided that the bureau shall prioritize the distribution of funds in the same manner as set
forth in § 71-5-1604(i)(2)(A)(ii); or

(C) The rules proposed by the bureau pursuant to § 71-5-1604(i)(2); and

(3) Confirmation that all contracts between hospitals and managed care organizations comply with the hospital rate variation corridors set forth in § 71-5-161.

c) The general assembly intends that the proceeds of the annual coverage assessment not be used as a justification to reduce or eliminate state funding to the TennCare program. The annual coverage assessment shall not be effective and validly imposed if the coverage or the amount of revenue available for expenditure by the TennCare program in FY 2017-2018 is less than:

(1) The governor’s FY 2017-2018 recommended budget level; plus

(2) Additional appropriations made by the general assembly to the TennCare program for FY 2017-2018, except to the extent new federal funding is available to replace funds that are appropriated as described in subdivision (c)(1) and that are above the amount that the state receives from CMS under the regular federal matching assistance percentage.

d)(1)(A) The general assembly intends that the proceeds of the annual coverage assessment not be used as justification for any TennCare managed care organization to implement across-the-board rate reductions to negotiated rates with covered or excluded hospitals or physicians in existence on July 1, 2017. For those rates in effect on July 1, 2017, the bureau shall include provisions in the managed care organizations’ contractor risk agreements that prohibit the managed care organizations from implementing across-the-board rate reductions to covered or excluded network hospitals or physicians either by category or by type of provider. The requirements of the preceding sentence shall also apply to services or settings of care that are ancillary to the primary license of a covered or excluded hospital or physician, but shall not apply to reductions in benefits or reimbursement for such ancillary services if the reductions:

(i) Are different from those items being restored in § 71-5-1605(d); and

(ii) Have been communicated in advance of implementation to the general assembly and the Tennessee Hospital Association.

(B)(i) For purposes of this subsection (d), services or settings of care that are ancillary to the primary license of a covered or excluded hospital or physician shall include all services where the physician or covered or excluded hospital, including a wholly owned subsidiary or controlled affiliate of a covered or excluded hospital or hospital system, holds more than a fifty percent (50%) controlling interest in such ancillary services or settings of care, but shall not include any other ancillary services or settings of care. For across-the-board rate reductions to ancillary services or settings of care, the bureau shall include appropriate requirements for notice to providers in the managed care organizations’ contractor risk agreements.

(ii) For purposes of this subsection (d), services or settings of care that are “ancillary” shall mean, but not be limited to, ambulatory surgical facilities, free standing emergency departments, outpatient treatment clinics or imaging centers, dialysis centers, home health and related services, home infusion therapy services, outpatient rehabilitation, or
skilled nursing services.

(iii) For purposes of this subsection (d), “physician” includes a physician licensed under title 63, chapter 6 or chapter 9, and a group practice of physicians that hold a contract with a managed care organization.

(2) This subsection (d) does not preclude good faith negotiations between managed care organizations and covered or excluded hospitals, hospital systems, and physicians on an individualized, case-by-case basis, nor is this subsection (d) intended by the general assembly to serve as justification for managed care organizations in this state, covered or excluded hospitals, hospital systems, or physicians to unreasonably deny any party the ability to enter into such individualized, case-by-case good faith negotiations. Such good faith negotiation necessarily implies mutual cooperation between the negotiating parties and may include, but is not limited to, the right to terminate contractual agreements, the ability to modify negotiated rates, pricing, or units of service, the ability to alter payment methodologies, and the ability to enforce existing managed care techniques or to implement new managed care techniques.

(3) This subsection (d) shall not preclude the full implementation of the requirements set forth in § 71-5-161.

(4) Notwithstanding this subsection (d), if CMS mandates a TennCare program change or a change is required by state or federal law that impacts rates, and that change is required to be implemented by the managed care organizations in accordance with their contracts, or if the annual coverage assessment becomes invalid, then nothing in this part shall prohibit the managed care organizations from implementing any rate changes as may be mandated by the bureau or by state or federal law.

71-5-1604. Amount and payment of assessment — Penalties for late payment — Actions to collect delinquent assessments. [Effective until June 30, 2018.]

(a) The annual coverage assessment established for this part shall be four and fifty-two hundredths percent (4.52%) of a covered hospital’s annual coverage assessment base.

(b) The annual coverage assessment shall be paid in installments pursuant to this subsection (b) if the requirements of § 71-5-1603(b) have been satisfied. The bureau shall establish a schedule of four (4) equal installment payments spread evenly throughout FY 2017-2018 with the first installment payment due either fifteen (15) days after the directed payments approved by CMS to offset unreimbursed TennCare costs have been made to hospitals, or if CMS does not approve directed payments to hospitals to offset unreimbursed TennCare costs, then fifteen (15) days after the first payment to hospitals under § 71-5-1605(d)(3).

(c) To facilitate collection of the annual coverage assessment, the bureau shall send each covered hospital, at least thirty (30) days in advance of each installment payment due date, a notice of payment along with a return form developed by the bureau. Failure of a covered hospital to receive a notice and return form, however, shall not relieve a covered hospital from the obligation of timely payment. The bureau shall also post the return form on its website.

(d) Failure of a covered hospital to pay an installment of the annual coverage assessment, when due, shall result in an imposition of a penalty of
five hundred dollars ($500) per day until such installment is paid in full. The bureau at its discretion may waive the penalty in the event the hospital establishes that it mailed or electronically transferred payment to the state on or before the date the payment was due.

(e) If a covered hospital ceases to operate after July 1, 2017, and before July 1, 2018, the hospital’s total annual coverage assessment shall be equal to its annual coverage assessment base multiplied by a fraction, the denominator of which is the number of calendar days from July 1, 2017, until July 1, 2018, and the numerator of which is the number of days from July 1, 2017, until the date the board for licensing healthcare facilities has recorded as the date that the hospital ceased operation.

(f) If a covered hospital ceases operation prior to payment of its full annual coverage assessment, then the person or persons controlling the hospital as of the date the hospital ceased operation shall be jointly and severally responsible for any remaining annual coverage assessment installments and unpaid penalties associated with previous late payments.

(g) If a covered hospital fails to pay an installment of the annual coverage assessment within thirty (30) days of its due date, the bureau shall suspend the payments to the hospital as required by § 71-5-1605(d)(2) or (3) until the installment is paid and report such failure to the department that licenses the covered hospital. Notwithstanding any other law, failure of a covered hospital to pay an installment of the annual coverage assessment or any refund required by this part shall be considered a license deficiency and grounds for disciplinary action as set forth in the statutes and rules under which the covered hospital is licensed.

(h) In addition to the action required by subsection (g), the bureau is authorized to file a civil action against a covered hospital and its controlling person or persons to collect delinquent annual coverage assessment installments, late penalties, and refund obligations established by this part. Exclusive jurisdiction and venue for a civil action authorized by this subsection (h) shall be in the chancery court for Davidson County.

(i)(1) If any federal agency with jurisdiction over this annual coverage assessment determines that the annual coverage assessment is not a valid source of revenue or if there is a reduction of the coverage and funding of the TennCare program contrary to § 71-5-1603(c), or if the requirements of §§ 71-5-161 and 71-5-1603(b) are not fully satisfied, or if one (1) or more managed care organizations impose rate reductions contrary to § 71-5-1603(d), then:

(A) No subsequent installments of the annual coverage assessment shall be due and payable; and

(B) No further payments shall be paid to hospitals pursuant to § 71-5-1605(d)(2) or (3) after the date of such event.

(2)(A) Notwithstanding this part, if CMS discontinues approval of or otherwise fails to approve the full amount of directed payments or unreimbursed hospital cost pool payments to hospitals to offset losses incurred from providing services to TennCare enrollees as authorized under § 71-5-1605(d), then the bureau shall suspend any payments from or to covered hospitals otherwise required by this part and shall promulgate rules that:

(i) Establish the methodology for determining the amounts, categories, and times of payments to hospitals, if any, instead of the payments that otherwise would have been paid under § 71-5-1605(d)(3) if ap-
proved by CMS;
(ii) Prioritize payments to hospitals as set forth in § 71-5-1605(d)(3);
(iii) Identify the benefits and services for which funds will be available in order to mitigate reductions or eliminations that otherwise would be imposed in the absence of the coverage assessment;
(iv) Determine the amount and timing of payments for benefits and services identified under subdivisions (i)(2)(A)(ii) and (iii) as appropriate;
(v) Reinstitute payments from or to covered hospitals as appropriate; and
(vi) Otherwise achieve the goals of this subdivision (i)(2).

(B) The rules adopted under this subdivision (i)(2) shall, to the extent possible, achieve the goals of:
(i) Maximizing the amount of federal matching funds available for the TennCare program; and
(ii) Minimizing the variation between payments hospitals will receive under the rules as compared to payments hospitals would have received if CMS had approved the total payments described in § 71-5-1605(d).

(C) Notwithstanding any other law, the bureau is authorized to exercise emergency rulemaking authority to the extent necessary to meet the objectives of this subdivision (i)(2).

(3) Upon occurrence of any of the events set forth in subdivision (i)(1) or (i)(2), the bureau shall then have authority to make necessary changes to the TennCare budget to account for the loss of annual coverage assessment revenue.

(j) A covered hospital or an association representing covered hospitals, the membership of which includes thirty (30) or more covered hospitals, shall have the right to file a petition for declaratory order pursuant to § 4-5-223 to determine if there has been a failure to meet any of the requirements of this part. A covered hospital may not increase charges or add a surcharge based on, or as a result of, the annual coverage assessment.

(k) Notwithstanding this part, if the bureau receives notification from CMS of the determination and approval set forth in § 71-5-1603(b), and if the determination and approval have retroactive effective dates, then:

(1) Annual coverage assessment payments that become due by application of the retroactive determination date from CMS shall be paid to the bureau within thirty (30) days from the date of the bureau notifying the Tennessee Hospital Association that CMS has issued the determination, subject to the provisions of this part requiring that certain payments to hospitals be made prior to payment of assessments; and

(2) Payments to covered hospitals required by § 71-5-1605(d) that become due by application of the retroactive approval date from CMS shall be paid within fifteen (15) days of the bureau notifying the Tennessee Hospital Association that CMS has issued such approval.

71-5-1605. Maintenance of coverage trust fund — Use of monies. [Effective until June 30, 2018.]

(a) The funds generated as a result of this part shall be deposited in the maintenance of coverage trust fund created by § 71-5-160, the existence of which is continued as provided in subsection (b). The fund shall not be used to
replace any monies otherwise appropriated to the TennCare program by the 
general assembly or to replace any monies appropriated outside of the 
TennCare program.

(b) The maintenance of coverage trust fund shall continue without inter-
ruption and shall be operated in accordance with § 71-5-160 and this section.

c) The maintenance of coverage trust fund shall consist of:

(1) The balance of the trust fund remaining as of June 30, 2017;

(2) All annual coverage assessments received by the bureau;

(3) Investment earnings credited to the assets of the maintenance of 
coverage trust fund; and

(4) Penalties paid by covered hospitals for late payment of assessment 
installments as described in § 71-5-1604(d).

d) Monies credited or deposited to the maintenance of coverage trust fund, 
together with all federal matching funds, shall be available to and used by the 
bureau only for expenditures in the TennCare program and shall include the 
following purposes:

(1) Expenditure for benefits and services under the TennCare program 
that would have been subject to reduction or elimination from TennCare 
funding for FY 2017-2018, except for the availability of one-time funding for 
that year only, as follows:

(A) Replacement of across-the-board reductions in covered and ex-
cluded hospital and professional reimbursement rates described in the 
governor’s recommended budgets since FY 2011;

(B) Maintenance of essential access hospital payments to the maximum 
allowed by CMS under the TennCare waiver of at least one hundred 
million dollars ($100,000,000);

(C) Maintenance of disproportionate share hospital payments to the 
maximum allowed by CMS under the TennCare waiver of at least 
eighty-one million six hundred thousand dollars ($81,600,000);

(D) Maintenance of payments to critical access hospitals to achieve 
reimbursement of full cost of benefits provided to TennCare enrollees up to 
ten million dollars ($10,000,000);

(E) Maintenance of payments for graduate medical education of at least 
fifty million dollars ($50,000,000);

(F) Maintenance of reimbursement for medicare part A crossover claims 
at the lesser of one hundred percent (100%) of medicare allowable or the 
billed amount;

(G) Avoidance of any coverage limitations relative to the number of 
hospital inpatient days per year annual cost of inpatient services for a 
TennCare enrollee;

(H) Avoidance of any coverage limitations relative to the number of 
nonemergency outpatient visits per year for a TennCare enrollee;

(I) Avoidance of any coverage limitations relative to the number of 
physician office visits per year for a TennCare enrollee;

(J) Avoidance of coverage limitations relative to the number of labora-
tory and diagnostic imaging encounters per year for a TennCare enrollee;

(K) Maintenance of coverage for occupational therapy, physical therapy, 
and speech therapy services;

(L) In the total amount of five hundred seventy-seven thousand four 
hundred dollars ($577,400) to maintain reimbursement at the emergency 
care rate for nonemergent care to children aged twelve to twenty-four 
(12-24) months to avoid the reduction described in the governor’s FY
2017-2018 recommended budget; and

(M) In the total amount of two million sixty-three thousand seven hundred dollars ($2,063,700) to the bureau to offset the elimination of the provision in the TennCare managed care contractor risk agreements for hospitals as follows:

CRA 2.12.9.60-Specify in applicable provider agreements that all providers who participate in the federal 340B program give TennCare MCOs the benefit of 340B pricing;

(2) Directed payments to hospitals to offset unreimbursed costs incurred by covered hospitals in providing services to TennCare patients, as approved by CMS. Unreimbursed TennCare costs are defined as the excess of TennCare cost over TennCare net revenue as reported on Schedule E, items (A)(1)(c) and (A)(1)(d) from the hospital's 2015 joint annual report filed with the department of health. TennCare costs are defined as the product of a facility's cost-to-charge ratio times TennCare charges. The amount of the directed payment to covered hospitals shall be no less than thirty-seven and nine tenths percent (37.9%) of unreimbursed TennCare cost for all hospitals licensed by the state that reported unreimbursed TennCare cost on the 2015 joint annual report (JAR), excluding state-owned hospitals. If directed payments to hospitals authorized by CMS do not fully cover the amount of the hospital unreimbursed TennCare costs required to be reimbursed by this section (d)(2), then the remaining balance in the trust fund shall be used to offset the remaining unreimbursed TennCare costs required to be reimbursed by this section;

(3)(A) In the event CMS does not approve directed payments to hospitals to offset unreimbursed costs incurred in serving TennCare patients, but instead approves the Unreimbursed Hospital Cost (UHC) pool in the TennCare waiver for such purpose, then payments shall be made from the allocated pool to covered hospitals to offset losses incurred in providing services to TennCare enrollees as set forth in this subdivision (d)(3) as first priority before any other supplemental payments authorized in the TennCare waiver are distributed;

(B) Each covered hospital shall be entitled to payments for FY 2017-2018 of a portion of its unreimbursed cost of providing services to TennCare enrollees. Unreimbursed TennCare costs are defined as the excess of TennCare cost over TennCare net revenue as reported on Schedule E, items (A)(1)(c) and (A)(1)(d) from the hospital's 2015 joint annual report filed with the department of health. TennCare costs are defined as the product of a facility's cost-to-charge ratio times TennCare charges. The amount of the payment to covered hospitals shall be no less than thirty-seven and nine tenths percent (37.9%) of unreimbursed TennCare costs for all hospitals licensed by the state that reported unreimbursed TennCare costs on the 2015 joint annual report (JAR), excluding state-owned hospitals;

(C) If funds are remaining for supplemental pools in the TennCare waiver authority after payments to covered hospitals from the UHC pool for uncompensated costs of serving TennCare patients as required in this subdivision (d)(3), the bureau shall allocate the remaining supplemental payments approved by CMS across the following categories: payments to essential access hospitals, payments to hospitals based on their status as medicaid disproportionate share hospitals, and payment to the state for
certified public expenditures recognized by CMS;

(D) The payments required by this subdivision (d)(3) shall be made in four (4) equal installments. Each installment payment shall be made by the third business day of four (4) successive periods within 2017-2018, with the first period to be the 15th day of the month in which the annual coverage assessment is first levied in accordance with § 71-5-1604. The bureau shall provide to the Tennessee Hospital Association a schedule showing the payments to each hospital at least seven (7) days in advance of the payments; and

(E) The payments required by this subdivision (d)(3) may be made by the bureau directly to the hospitals, or the bureau may transfer the funds to one (1) or more managed care organizations with the direction to make payments to hospitals as required by this subsection (d). The payments to a hospital pursuant to this subdivision (d)(3) shall not be considered part of the reimbursement to which a hospital is entitled under its contract with a TennCare managed care organization;

(4) Refunds to covered hospitals based on the payment of annual coverage assessments or penalties to the bureau through error, mistake, or a determination that the annual coverage assessment was invalidly imposed; and

(5) Payments authorized under rules promulgated by the bureau pursuant to § 71-5-1604(i)(2).

e) If a hospital closes or changes status from a covered hospital to an excluded hospital and consequently reduces the amount of the annual coverage assessment to the extent that the amount is no longer sufficient to cover the total cost of the items included in subsection (d), the payments for these items may be adjusted by an amount equal to the shortfall, including the federal financial participation. The items to be adjusted and the amounts of the adjustments shall be determined by the bureau in consultation with hospitals.

(f) The bureau shall modify the contracts with TennCare managed care organizations and otherwise take action necessary to assure the use and application of the assets of the maintenance of coverage trust fund, as described in subsection (d).

g) The bureau shall submit requests to CMS to modify the medicaid state plan, the contractor risk agreements, or the TennCare II Section 1115 demonstration project, as necessary, to implement the requirements of this part.

(h) At quarterly intervals beginning September 1, 2017, the bureau shall submit a report to the finance, ways and means committees of the senate and the house of representatives, to the health and welfare committee of the senate, and to the health committee of the house of representatives, which report shall include:

(1) The status, if applicable, of the determination and approval by CMS set forth in § 71-5-1603(b) of the annual coverage assessment;

(2) The balance of funds in the maintenance of coverage trust fund; and

(3) The extent to which the maintenance of coverage trust fund has been used to carry out this part.

(i) No part of the maintenance of coverage trust fund shall be diverted to the general fund or used for any purpose other than as set forth in this part.

71-5-1606. Expiration of part — Surviving rights and obligations. [Effective until June 30, 2018.]

This part shall expire on June 30, 2018; provided, however, that the
following rights and obligations shall survive such expiration:

(1) The authority of the bureau to impose late payment penalties and to collect unpaid annual coverage assessments and required refunds;

(2) The rights of a covered hospital or an association of covered hospitals to file a petition for declaratory order to determine compliance with this part;

(3) The existence of the maintenance of coverage trust fund and the obligation of the bureau to use and apply the assets of the maintenance of coverage trust fund; and

(4) The obligation of the bureau to implement and maintain the requirements of § 71-5-161.

71-5-2507. Enforcement by law enforcement officers.

(a) The staff of the office of inspector general may include law enforcement officers, as defined in § 39-11-106(21) and qualified as defined in § 38-8-106, who have successfully completed a training course approved by the Tennessee peace officer standards and training commission, including surveillance training.

(b) Any duly authorized law enforcement officer who has been specifically designated by the inspector general to enforce this part is authorized and empowered to go armed while on active duty engaged in enforcing this part; and is authorized to make arrests for offenses involving criminal fraud and abuse of the TennCare program and any other violations of state criminal law related to the operation of TennCare. Any such person is also authorized and empowered to execute search warrants and do all acts incident thereto in the same manner as search warrants may be executed by sheriffs and other peace officers.

71-6-117. Offense of abuse or neglect of adult — Placement on registry — Fine.

(a) It is an offense for any person to knowingly, other than by accidental means, abuse or neglect any adult within the meaning of this part.

(b) A violation of this section is a Class D felony.

(c)(1) Following a conviction for a violation of this section or § 71-6-119, the clerk of the court shall notify the department of health of the conviction by sending a copy of the judgment in the manner set forth in § 68-11-1003 for inclusion pursuant to title 68, chapter 11, part 10.

(2) Upon receipt of a judgment of conviction for a violation of an offense set out in subdivision (c)(1), the department shall place the person or persons convicted on the registry of persons who have abused, neglected, or misappropriated the property of a vulnerable individual as provided in § 68-11-1003(c).

(3) Upon entry of the information in the registry, the department shall notify the person convicted, at the person’s last known mailing address, of the person’s inclusion on the registry. The person convicted shall not be entitled or given the opportunity to contest or dispute either the prior hearing conclusions or the content or terms of any criminal disposition, or attempt to refute the factual findings upon which the conclusions and determinations are based. The person convicted may challenge the accuracy of the report that the criminal disposition has occurred, such hearing conclusions were made or any factual issue related to the correct identity of
the person. If the person convicted makes such a challenge within sixty (60) days of notification of inclusion on the registry, the commissioner, or the commissioner’s designee, shall afford the person an opportunity for a hearing on the matter that complies with the requirements of due process and the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) In addition to any other punishment that may be imposed for a violation of this section, if, as determined by the court, the victim was sixty (60) years of age or older, then the court shall impose a fine in an amount between fifty dollars ($50.00) and two hundred dollars ($200). The additional fine shall be paid to the clerk of the court imposing sentence, who shall transfer it to the state treasurer, who shall credit the fine to the general fund. All fines so credited to the general fund may be subject to appropriation by the general assembly for the purpose of funding services and programs for senior citizens.

71-6-120. Right of elderly person or disabled adult to recover for abuse or neglect, sexual abuse, exploitation, or theft.

(a) As used in this section, unless the context otherwise requires:

(1) “Capacity to consent” means the mental ability to make a rational decision, which includes the ability to perceive, appreciate all relevant facts and to reach a rational judgment upon such facts; or to make and carry out reasonable decisions concerning the person or the person’s resources; or to protect the person from neglect, or hazardous or abusive situations without assistance;

(2) “Disabled adult” means a person who is eighteen (18) years of age or older and who meets one (1) of the following:

(A) Has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment;

(B) Lacks the capacity to consent;

(C) Has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons; or

(D) Has been found to be incompetent by a court of proper jurisdiction; and

(3) “Elderly person” or “elder” means a person who is sixty (60) years of age or older who has some mental or physical dysfunctioning, including any resulting from age.

(b) In addition to other remedies provided by law, an elderly person or disabled adult in that person’s own right, or by conservator or next friend, shall have a right of recovery in a civil action for compensatory damages for abuse or neglect, sexual abuse or exploitation as defined in this part or for theft of such person’s or adult’s money or property whether by fraud, deceit, coercion or otherwise. Such right of action against a wrongdoer shall not abate or be extinguished by the death of the elderly person or disabled adult, but shall pass as provided in § 20-5-106, unless the alleged wrongdoer is a family member, in which case the cause of action shall pass to the victim’s personal representative.

(c) Jurisdiction for such action shall be in the circuit or chancery court where the elderly person or disabled adult may reside or where the actions occurred.

(d) Damages shall include compensatory damages and costs where it is
proven that a defendant is liable for abuse or neglect, sexual abuse or exploitation as defined in this part or for theft of such elderly person’s or disabled adult’s money or property whether by fraud, deceit, coercion or otherwise. Costs shall include reasonable expenses. In addition, if it is proven upon clear and convincing evidence that abuse or neglect, sexual abuse or exploitation or theft resulted from intentional, fraudulent or malicious conduct by the defendant, a claimant shall be entitled to recover reasonable attorneys’ fees. As part of any judgment, the court may declare void and unenforceable any marriage proven to have been entered into as part of a scheme to commit abuse or neglect, sexual abuse or exploitation as defined in this part or theft of such elderly person’s or disabled adult’s money or property whether by fraud, deceit, coercion or otherwise.

(e) In addition to the damages described in (d), a defendant may also be found liable for punitive damages in accordance with applicable common law standards.

(f) Nothing in this section shall be construed as requiring the department of human services to initiate any proceedings pursuant to this section or to act on behalf of any elderly person or disabled adult subject to this section.

(g) This section shall not apply to a cause of action within the scope of title 29, chapter 26; such cause of action shall be governed solely by title 29, chapter 26.

(h) A financial institution, officer, director, or employee of a financial institution, shall not be liable in any civil action brought by or on behalf of a disabled adult or elderly person for recovery of damages under this chapter, unless prior to such civil action, the financial institution, officer, director, or employee of a financial institution, shall have been convicted of a violation of § 39-15-502; provided, however, that this provision shall not apply to theft or conversion by an employee, officer or director of a financial institution or liability arising under other provisions of law.

71-6-124. Procedure for seeking relief by relative having personal knowledge that an adult has been subject to or threatened with willful abuse, neglect or exploitation.

(a)(1)(A) Any relative having personal knowledge that an adult has been the subject of a violation of § 71-6-117 or § 39-15-502 or that such adult is threatened with or placed in fear of a violation of § 71-6-117 or § 39-15-502 occurring against such adult may seek relief for the adult pursuant to this section by filing a sworn petition with any court with jurisdiction under this part alleging that the respondent has violated or threatens to violate § 71-6-117 or § 39-15-502, regardless of the existence of any other remedy at law. For purposes of this section, “adult” shall not include a person while in the custody of intermediate care facilities for persons with intellectual disabilities and a person while receiving residential services or other services from a community provider through contracts with the department of intellectual and developmental disabilities (DIDD).

(B) The petition must allege facts, based upon personal knowledge of the petitioner, that the adult lacks capacity to consent.

(C) Venue for a petition for an order of protection, and all other matters relating to orders of protection, shall be in the county where the respondent resides or the county in which the violation of § 71-6-117 or
§ 39-15-502 occurred or is threatened to occur. If the respondent is not a resident of this state, the petition may be filed in the county where the adult resides.

(2) The court may enter an immediate ex parte order of protection against the respondent if the petition alleges upon personal knowledge of the petitioner, and the court finds in its ex parte order, that the adult lacks capacity to consent and is in immediate danger of abuse, neglect or exploitation or that the adult's property is being, is in immediate danger of being, or has been misappropriated by the respondent.

(3) The petition and any ex parte order issued pursuant to this section shall be personally served upon the respondent and the adult. If the respondent is not a resident of this state, the ex parte order shall be served pursuant to §§ 20-2-215 and 20-2-216.

(4) Written notice of the filing of the petition and copies of the petition and the ex parte order of protection against the respondent, if any, shall be sent by certified mail, return receipt to the adult protective services unit in the county office of department of human services in the county in which the petition is filed. The department shall have the right to intervene in the proceeding, but shall not otherwise be required to initiate any legal action as a result of such notice. The department may, at any time, file a petition pursuant to § 71-6-107 if it determines that the adult who is the subject of a petition for an order of protection is in need of protective services.

(5)(A) Within fifteen (15) days of service of an ex parte order of protection against the respondent, a hearing shall be held, at which time the court shall either dissolve any ex parte order that has been issued, or shall, if the petitioner has proved the adult lacks capacity to consent and the allegation of abuse, neglect or exploitation or the threat of such by a preponderance of the evidence, extend the order of protection for a definite period of time, not to exceed one hundred twenty (120) days, unless a further hearing on the continuation of such order is requested by the adult, the respondent or the petitioner; in which case, on proper showing of cause, such order may be continued for a further definite period of one hundred twenty (120) days.

(B) Any ex parte order of protection shall be in effect until the time of the hearing, and, if the hearing is held within fifteen (15) days of service of such order, the ex parte order shall continue in effect until the entry of any subsequent order of protection is issued, proceedings under title 34, chapters 1-3, are concluded, or the order of protection is dissolved. If no ex parte order of protection has been issued as of the time of the hearing, and the petitioner has proven that the adult lacks capacity to consent and the allegation of abuse, neglect or exploitation of the adult or the threat of such by a preponderance of the evidence, the court may, at that time, issue an order of protection for a definite period of time, not to exceed one hundred twenty (120) days.

(C) The court shall cause a copy of the petition and notice of the date set for the hearing on such petition, as well as a copy of any ex parte order of protection, to be served upon the respondent and the adult at least five (5) days prior to such hearing. Such notice shall advise the respondent and the adult that each may be represented by counsel. The court may appoint a guardian ad litem under § 34-1-107.
Within the time the order of protection is in effect, any court with jurisdiction under this part may modify the order of protection, either upon the court’s own motion or upon motion of the adult, the respondent or the petitioner.

(b) An order of protection granted pursuant to this section may:

(1) (A) Order the respondent to refrain from committing a violation of this part against an adult;
(B) Refrain from threatening to misappropriate or further misappropriating any moneys, state or federal benefits, retirement funds or any other personal or real property belonging to the adult; or
(C) Order the return to the adult or the adult’s caretaker or conservator or other fiduciary any moneys, state or federal benefits, retirement funds or any other personal or real property belonging to the adult obtained by the respondent as result of exploitation of the adult or as result of any other misappropriation of such funds or property of the adult by the respondent. The court may enter judgment against the respondent for the repayment or return to the adult or the adult’s caretaker, conservator or other fiduciary of any moneys, government benefits, retirement funds or any other personal or real property belonging to the adult that are under the control of or that have been obtained by the respondent as result of exploitation or misappropriation from the adult. Nothing in this subdivision (b)(1)(C) shall preclude an action under § 71-6-120. The court may, if the amount in question exceeds ten thousand dollars ($10,000), require any caretaker or custodian of funds appointed under this section to post a bond as required by § 34-1-105;
(2) Enjoin the respondent from providing care for an adult, on a temporary or permanent basis, anyone who the court finds has engaged in abuse, neglect or exploitation of an adult as defined in this part; in any situation involving the care of such adult, whether such actions occurred in an institutional setting, in any type of group home or foster care arrangement serving adults, and regardless of whether such person, facility or arrangement serving adults is licensed to provide care for adults;
(3) Prohibit the respondent from telephoning, contacting, or otherwise communicating with the adult, directly or indirectly; or
(4) Subject to the limitations otherwise stated in this section, grant any other relief deemed necessary by the court to protect an adult.

c) All orders of protection shall be effective for a fixed period of time, not to exceed one hundred twenty (120) days. The court may modify its order at any time upon subsequent motion filed by any party together with an affidavit showing a change in circumstances sufficient to warrant the modification. The petitioner, respondent or adult, or the court on its own motion shall commence a proceeding under title 34, chapters 1-3 to determine whether a fiduciary should be appointed, if any party alleges that the conditions giving rise to the order of protection continue or may continue beyond the one hundred twenty (120) days.

(d)(1) If the adult and the respondent have been served with a copy of the petition and notice of hearing, the order of protection shall be effective when the order is entered. For purposes of this subdivision (d)(1), an order shall be considered entered once a hearing is conducted and when such order is signed by:

(A) The judge and all parties or counsel;
(B) The judge and one (1) party or counsel and contains a certificate of counsel that a copy of the proposed order has been served on all other parties or counsel; or

(C) The judge and contains a certificate of the clerk that a copy has been served on all other parties or counsel.

(2) Service upon a party or counsel shall be made by delivering to such party or counsel a copy of the order of protection, or by the clerk mailing it to the party's last known address. In the event the party’s last known address is unknown and cannot be ascertained upon diligent inquiry, the certificate of service shall so state. Service by mail is complete upon mailing.

(3) If the adult and the respondent have been served with a copy of the petition and notice of hearing, an order of protection issued pursuant to this part after a hearing shall be in full force and effect against the respondent from the time it is entered, regardless of whether the respondent is present at the hearing.

(4) A copy of any order of protection and any subsequent modifications or dismissal shall be issued to the petitioner, the respondent and the local law enforcement agencies having jurisdiction in the area where the adult resides. Upon receipt of the copy of the order of protection or dismissal from the issuing court or clerk's office, the local law enforcement agency shall take any necessary action to immediately transmit it to the national crime information center.

(5) Upon violation of an order of protection entered pursuant to this section, a court may order any appropriate punishment or relief as provided for in § 36-3-610.

(e)(1) It is an offense to knowingly violate an order of protection issued pursuant to this section. A law enforcement officer may arrest a respondent who is the subject of an order of protection issued pursuant to this section with or without warrant.

(2) In order to constitute a violation of this section:

(A) The person must have received notice of the request for an order of protection;

(B) The person must have had an opportunity to appear and be heard in connection with the order of protection or restraining order; and

(C) The court must have made specific findings of fact in the order of protection that the person committed a violation of this part.

(3) Any law enforcement officer shall arrest the respondent without a warrant if:

(A) The officer has proper jurisdiction over the area in which the violation occurred;

(B) The officer has reasonable cause to believe the respondent has violated or is in violation of an order for protection; and

(C) The officer has verified that an order of protection is in effect against the respondent. If necessary, the law enforcement officer may verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement department.

(4) Any person arrested for a violation of an order of protection entered pursuant to this section shall be treated as a person arrested for a violation of an order of protection issued pursuant to title 36, chapter 3, part 6.

(5) A violation of this subsection (e) is a Class A misdemeanor, and any sentence imposed shall be served consecutively to the sentence for any other
offense that is based in whole or in part on the same factual allegations, unless the sentencing judge or magistrate specifically orders the sentences for the offenses arising out of the same facts to be served concurrently.