

HOUSE BILL 835
By Hood

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7; Title 13; Title 54; Title 57; Title 67;
Title 68 and Title 69, relative to the powers and
responsibilities of local governments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The General Assembly determines by the adoption of this act that it is in the best interest of state-local government relationships that municipalities, counties, and metropolitan governments be given the authority, consistent with the Constitution and existing laws of the state as modified by this act, to determine locally the state-delegated powers and financial arrangements that will affect and be put to use in a particular local government unit. To that end and in the interest of local autonomy, the General Assembly delegates to municipalities, counties, and metropolitan governments the power and authority delegated in this act for the benefit of the state's local governments and the citizens residing in them. It is the intent of the General Assembly that the power and authority delegated by this act be liberally construed to affect the purposes of their delegation. Dillon's Rule or similar common law rules that have in the past been used to limit local government authority shall not be held to negate, inhibit, constrict, or impair the authority delegated by the General Assembly to local governments in this act and other statutes that delegate power and authority to local governments.

SECTION 2. Tennessee Code Annotated, Title 7, Chapter 51, is amended by adding the following as a new part::

Section 7-5-1701. Counties, incorporated municipalities and metropolitan governments may own and/or operate hospitals, clinics, nursing homes or other medical service centers, directly or through contract arrangements with other legal entities,

consistent with license procedures and other regulations applicable to such institutions pursuant to general law. Counties, incorporated municipalities and metropolitan governments may acquire and dispose of land, buildings and equipment, provide medical and related services directly or by contract, charge fees for services, employ personnel, contract with companies, employee groups or other groups to provide service and do all things necessary to effectively manage the health care facilities they own or operate.

Section 7-51-1702. Counties, municipalities and metropolitan governments, may own and/or operate animal shelters and/or other animal control facilities, directly or through contract arrangements with other legal entities. Counties, municipalities and metropolitan governments may provide for the mandatory registration of designated animals, the charging of fees for registration and other services, the mandatory or voluntary vaccination or medical treatment of certain designated animals, the capture of unregistered or stray animals and their disposition (which may include the killing of the animal), the employment of persons or contracting for services related to animal control, and exercise such other powers as are necessary to provide for a healthy animal population which is controlled in a safe manner. Counties and metropolitan governments may adopt regulations governing the control of animals and may impose civil penalties not exceeding five hundred dollars (\$500.00) for the violation of any such regulations. Municipalities may adopt regulations governing the control of animals and may impose civil penalties not exceeding fifty dollars (\$50.00) for the violation of any such regulations. Furthermore, repeat violators of such regulations may be enjoined through suit brought by the respective county, municipality or metropolitan government. These regulations are enforceable in the municipal court for municipal ordinance violation, general sessions court, court with general sessions jurisdiction, or circuit court.

Section 7-51-1703. Counties, municipalities and metropolitan governments may receive donations, designated or undesignated, to carry out any public purpose, or may refuse to receive donations as they deem appropriate.

SECTION 3. Tennessee Code Annotated, Section 5-8-102, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) The proceeds of any tax levied pursuant to this section shall be allocated to the county general fund or such other county fund as may be designated by the county legislative body.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 7, is amended by adding the following sections as an additional part to be appropriately designated:

Section 67-7-301. This part shall be known and cited as the "Pulpwood Severance Tax Act of 2005".

Section 67-7-302. As used in this part, unless the context otherwise requires:

(1) "Person" means any individual, corporation, partnership, limited partnership, limited liability company, or any other nongovernmental entity owning or possessing an interest in lands located in the county levying a tax pursuant to this part.

(2) "Pulpwood" means trees severed from the earth, both hardwood and softwood, whether whole or part, that is ground or chipped and manufactured into salable wood or paper products.

Section 67-7-303.

(a) Any county legislative body, by resolution, is authorized to levy a severance tax on all pulpwood severed from the earth within its jurisdiction. Such tax shall be upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside of the county.

(b) The tax shall accrue at the time the pulpwood is severed from the earth and in the natural or unprocessed state.

(c) The tax levied shall be a lien upon all such pulpwood severed in the county and upon all property from which it is severed, and such lien shall be entitled to preference over all judgments, encumbrances or liens except for property taxes.

Section 67-7-304. The county legislative body shall set the rate of the tax on the basis of an amount per ton on all pulpwood severed from the earth in the county.

Section 67-7-305.

(a) The collector of the tax shall be a county official designated by the resolution levying the tax. The county legislative body, by resolution, may provide regulations for the administration of this tax consistent with this part.

(b) The tax shall be due and payable monthly on the tenth day of the month next succeeding the month in which the pulpwood is severed from the earth.

(c) In all counties wherein the tax authorized by this part has been levied, it shall be the duty of all owners of land whereupon pulpwood has been severed to transmit to the official designated as collector, a return upon forms provided by the collector. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

Section 67-7-306.

(a) The tax levied pursuant to this part shall become delinquent on the sixteenth day of the month next succeeding the month in which such tax accrues.

(b) When any owner fails to make any return and pay the full amount of the tax levied and due on or before such date, there shall be imposed, in addition

to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. A further penalty of fifty percent (50%) of the tax due shall be added if the tax is not paid within ninety (90) days of the date on which the tax becomes delinquent.

(c) All such penalties and interest imposed by this act shall be payable to and collectable by the collector in the same manner as if they were a part of the tax imposed.

(d) All taxes and penalties remaining uncollected one year after the tax has become delinquent may be collected by civil suit instituted in the name of the county by the collector against the delinquent owner, or the taxes and penalties may be collected in the same manner as delinquent real property taxes against the land upon which the pulpwood was severed.

Section 67-7-307. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing pulpwood from all land administered, owned, leased, or possessed by that person in the county. Restraint proceedings shall be instituted in the name of the county by the collector in the circuit or chancery court of the county.

Section 67-7-308. The proceeds from this tax shall be allocated to the county general fund or such other county fund as may be designated by resolution of the county legislative body.

Section 67-7-309.

(a) It is a violation of this part for any person required to make a return, pay a tax, keep records, or furnish information deemed necessary by the collector for the computation, assessment, or collection of any tax levied pursuant to this part, to fail to make the return, pay the tax, keep the records, or

furnish the information at the time required by law or regulation. It is a violation for any person to willfully or fraudulently make and sign a return which he or she does not believe to be true and correct as to every material fact.

(b) A violation of any provision of this part is a Class B misdemeanor, with a fine not to exceed one thousand dollars (\$1,000). However, a second violation of this part is a Class A misdemeanor.

(c) For purposes of this section, the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under a duty to perform the act in respect to which the violation occurs.

SECTION 5. Tennessee Code Annotated, Section 67-4-1401, is amended by deleting subdivision (3) and substituting instead the following:

(3) "Municipality" means an incorporated city or any county or metropolitan government;

SECTION 6. Tennessee Code Annotated, Section 67-4-1401, is amended by inserting immediately after the word "syndicate" in the definition of the word "Person" the words and punctuation ", state or local governmental entity".

SECTION 7. Tennessee Code Annotated, Section 67-4-1402, is amended by deleting subsection (b) in its entirety.

SECTION 8. Tennessee Code Annotated, Sections 67-4-1402 through 67-4-1411, are amended by inserting the words "or resolution" immediately after the word "ordinance" wherever it appears in said sections.

SECTION 9. Tennessee Code Annotated, Section 67-4-503, is amended by deleting the section in its entirety.

SECTION 10. Tennessee Code Annotated, Title 13, is amended by adding the following as a new chapter:

Section 13-30-101. This chapter shall be known and cited as the “Tennessee Governmental Entity Construction Impact Fee Act”.

Section 13-30-102. As used in this chapter, unless a different meaning clearly appears from the context:

(1) “Capital or public improvements” means the construction, reconstruction, building, replacement, extension, enlargement, or repair of any street, alley, sidewalk, gutter, and or similar improvements; schools; parks and playgrounds; waterworks, water distribution systems, sewers, sewerage, storm water or drainage system authorized by the governing body of any governmental entity; and includes any one (1) or more or any combination of these public improvements.

(2) “Developer” means the person, corporation, partnership, or other entity responsible for any new land development.

(3) “Governing body” means the county legislative body of a county or the municipal legislative body of a municipality or governing body of a metropolitan government.

(4) “Governing entity” means any incorporated municipality, county or metropolitan government.

Section 13-30-103. It is the intent and purpose of this chapter to grant to governing entities the authority to establish a regulatory procedure or system to collect fees from the developer of any new land development activity so as to require the developer to share in the burdens of growth by paying a pro rata share for the reasonably anticipated expansion cost of public improvements generated by the new land development activity. Governing entities may not assess, impose, levy, or collect an impact fee unless the governing entity has adopted a capital improvements plan for

the construction of public facilities indicating the need for the cost of public facilities anticipated to be funded, in part, by this fee and after finding that the need for the public facilities is reasonably related to the new development in the county or municipality.

Section 13-30-104. Any governmental entity may perform or order the construction, reconstruction, building, replacing, extending, enlarging or order the construction, reconstruction, building, replacing, extending, enlarging or repairing of any capital or public improvement and provide for the payment of the cost of any such public improvements by levying and collecting an impact fee on new land development.

Secton 13-30-305. When the governing body of any governing entity determines to make any public improvement authorized by this chapter and defray the expense thereof by an impact fee, the governing body shall adopt an ordinance in the case of municipalities and metropolitan governments or a resolution in the case of counties to so declare by stating the nature of the proposed public improvement. The ordinance or resolution shall establish the portion of expense, thereof to be paid by the impact fee, the manner in which the impact fee shall be made, and when the impact fees are to be paid. The governing body shall establish an impact fee formula that requires the developer to pay an impact fee that does not exceed a pro rata share of the reasonably anticipated cost for the public improvements created by the new land development activity.

Section 13-30-106.

(a) An impact fee must meet the following standards:

(1) The cost of public facilities for which a impact fee may be assessed, imposed, levied or collected, must be reasonably attributable or reasonably related to the service demands of the new growth and development;

(2) Impact fees assessed, imposed, levied or collected from new growth and development must not exceed a proportionate share of the costs incurred or to be incurred by the governing entity in providing public facilities to new growth and development; and

(3) Impact fees shall be used and expended to the benefit of the new growth and development that pays the impact fee. In order to satisfy this requirement, the implementing ordinance or resolution must specifically contain the following provisions:

(A) Upon collection, impact fees must be deposited in a trust fund that clearly identifies the type of public facility for which the fee was imposed, and impact fees must be invested with interest accruing to the trust fund.

(B) Except for recoupment provided in subsection (b), impact fees may not be collected from a developer until public facilities, which bear a reasonable relationship to the needs created by the development, are included in at least a five (5) year local government capital improvements budget as required by this chapter.

(C) Impact fees collected must be used for the construction of public facilities within five (5) years after the date of collection.

(D) If the impact fees are not used within five (5) years after the date of collection, a governing entity shall refund the amount of the impact fee along with accrued interest on the amount of the fee at the average annual rate of interest earned by

the trust fund during the five (5) year period on which the fee was paid. For purposes of refunds, the owner on which a impact fee was paid is the owner of record at the time that the refund is paid. The owner of the property on which an impact fee has been paid has standing to sue for a refund under the provisions of this chapter; however such an action must be commenced within one (1) year after the date the refund becomes due and payable.

(b) A governing entity may recoup through an impact fee the costs of excess capacity in existing public facilities to the extent new growth and development is served by the existing public facilities.

(c) A governing entity shall exempt from impact fee programs all new growth and development that constitutes affordable housing for low income households as defined by the United States department of housing and urban development.

(d) A governing entity may exempt from impact fee programs particular types and locations of new growth and development that are determined by the governing body to serve an overriding public interest, provided that such exemptions are specified in the implementing ordinance or resolution.

Section 13-30-107. The governing body shall provide a schedule and method for the payment of the fees in a manner appropriate to the particular circumstances of the proposed new development. The ordinance or resolution may not require the payment of an impact fee before a building permit is issued. The governing body shall require security ensuring payment of the fees subsequent to the issuance of a building permit. The security may be in the form of a cash bond, security bond, an irrevocable letter of credit, or a lien or mortgage on the lands to be covered by the building permit.

Section 13-30-108. The provisions of this chapter shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law. This chapter shall be deemed to create an additional and alternative method for counties and municipalities to impose and collect taxes for the purpose of providing public facilities within the county.

SECTION 11. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part:

Section 67-4-2901. This part shall be known and may be cited as the "Adequate Facilities Tax of 2005".

Section 67-4-2902. As used in this part, unless a different meaning clearly appears from the context:

(1) "Building" means any structure built for the support, shelter or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home. This will not pertain to buildings used for agricultural purposes.

(2) "Building permit" means a permit for development issued by a county or municipality.

(3) "Capital improvement program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.

(4) "Certificate of Occupancy" means a license for occupancy of a building or structure issued whether by a county or by any municipality.

(5) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, which provides, adds to or increases the floor area of a residential or non-residential use.

(6) "Dwelling unit" means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(7)

(A) "Floor area" for non-residential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(B) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, attics, porches and garages which is heated and/or air-conditioned living space, or designed to be finished into heated and/or air-conditioned living space at a future date.

(8) "General plan" means the official statement of the planning commission which sets forth major policies concerning such future development of the jurisdictional area and meeting the provisions set forth in the Tennessee Code Annotated, Sections 13-3-301, 13-3-302 and 13-4-201. For purposes of this part only, a general plan may consist solely of the land development plan element which sets out a plan or scheme of future land usage.

(9) "Governing body" means the county legislative body of a county or the municipal legislative body of a municipality or metropolitan government.

(10) "Major Street or road plan" means the plan adopted by the municipal planning commission, pursuant to Tennessee Code Annotated, Sections 13-4-201, 13-4-302, and 13-4-303, showing among other things, "the general location, character, and extent of public ways (and) the removal, relocation, extension, widening, narrowing, vacating, abandonment or change of use of existing public ways";

(11) "Non-residential" means the development of any property for any use other than residential use, except as may be exempted by this part.

(12) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and includes plural as well as the singular number.

(13) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a place of worship does not include buildings or portions of buildings which are used for purposes other than

for worship and related functions or which are or are intended to be leased, rented or used by persons who do not have tax-exempt status.

(14) "Public buildings" means buildings owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including but not necessarily limited to counties, cities, school districts and special districts, or the federal government or any agency thereof.

(15) "Public facility or facilities" means a physical improvement undertaken by the municipality, including, but not limited to the following: roads and bridges, parks and recreational facilities, jail and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities and other governmental capital improvements benefiting the citizens of the county and/or municipalities.

(16) "Residential" means the development of any property for a dwelling unit or units.

(17) "Subdivision regulations" means the regulations adopted by the governing body, as amended, pursuant to Tennessee Code Annotated, Section 13-4-303, by which the county or municipality regulates the subdivision of land.

(18) "Zoning ordinance or resolution" means the ordinance adopted by the governing body, as amended, pursuant to Tennessee Code Annotated, Section 13-7-201, by which the county or municipality regulates the zoning, use and development of property.

Section 67-4-2903. It is the intent and purpose of this part to authorize any county and any municipality to impose a tax on new development in the county or the municipality payable at the time of issuance of a building permit or certificate of occupancy so as to ensure and require that the persons responsible for new

development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by the development.

Section 67-4-2904. Engaging in the act of development is declared to be a privilege upon which counties and municipalities may, by resolution of the governing body in the case of counties and by ordinance in the case of municipalities levy a tax.

Section 67-4-2905. The governing body may impose the tax authorized herein after adopting a capital improvements program indicating the need for the cost of public facilities anticipated to be funded, in part, by this tax and after finding that the need for the public facilities is reasonably related to the new development in the county or municipality. The resolution or ordinance of the governing body imposing this tax shall state the rate of tax on new residential and non-residential development. The governing body shall adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this part.

Section 67-4-2906. This part shall not apply to development of:

- (a) Public Buildings;
- (b) Places of Worship;
- (c) Barns or outbuildings used for agricultural purposes;
- (d) Replacement structures for previously existing structures;
- (e) Additions to a single-family dwelling;
- (f) A structure owned by a non-profit corporation which is a qualified 501(c) (3) corporation under the Internal Revenue Code;
- (g) Permanent residential structures replacing mobile homes where the mobile home is removed within thirty (30) days of the issuance of the certificate of occupancy for the permanent residential structure, provided that the permanent structure is a residence for the owner and occupant of the mobile

home and that owner and occupant has resided on the property for a period of not less than three (3) years.

(h) Buildings moved from one site within the jurisdiction to another site within the jurisdiction.

Section 67-4-2907. For the exercise of the privilege described herein, counties and municipalities may impose a tax on new development based upon an amount per gross square foot of new residential development and new non-residential development. The county or municipality may develop a tax rate schedule by which residential and non-residential uses are classified by type for the purpose of imposition of the tax authorized herein.

Section 67-4-2908. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined or if a building permit is not required, at the time of application for a certificate of occupancy by the county or city official duly authorized in the jurisdiction to issue building permits or certificates of occupancy. If the county tax is collected by the county, the county building official or other responsible municipal official shall receive payment in full in cash or other negotiable instrument as specified by resolution of the county and as approved by the county attorney. If the county tax is collected by the municipality, the municipality before issuance of building permit or certificate of occupancy, shall receive payment in cash or by a negotiable instrument payable to the county and subject to the approval of the county attorney in the full amount of the tax due. On the last business day of each week, the municipality shall transfer such cash and negotiable instruments to the county collector. No building permit for residential or non-residential development as herein defined shall be issued in a jurisdiction unless the tax has been paid in full to the county

or a negotiable instrument, approved by the county or city attorney and payable to the county or municipality, has been received.

Section 67-4-2909. The authority to impose this privilege tax on new development is in addition to all other authority to impose taxes, fees, assessments, or other revenue-raising or land development regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such tax, in addition to any other authorized tax, fee, assessment or charge, shall not be deemed to constitute double taxation.

Section 67-4-2910. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law. This part shall be deemed to create an additional and alternative method for counties and municipalities to impose and collect taxes for the purpose of providing public facilities within the county.

SECTION 12. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part::

Section 67-4-3001. This part shall be known as the "Local Option Restaurant Revenue Act of 2005".

Section 67-4-3002. These definitions apply in the interpretation of this chapter unless the context indicates otherwise:

(1) "Meal" means any food or beverage, or both, prepared for human consumption and served by a restaurant, whether the food or beverage is served for consumption on or off the restaurant premises. The term "meal" includes food or beverages sold on a "take out" or "to go" basis, whether or not they are taken from the premises of the restaurant. The term "meal" excludes any food or beverage wholly packaged off the premises except:

(A) Sandwiches of all kinds;

(B) Beverages in unsealed containers; and

(C) Catered meals or meals that are delivered to the location where the meal is consumed. Beverage includes an alcoholic beverage, served with or without food.

(2) "Restaurant" means an eating establishment where food, food products, or beverages are served and for which a charge is made. The term includes, but is not limited to, a cafe, lunch counter, private or social club, cocktail lounge, hotel dining room, catering business, tavern, diner, snack bar, dining room, food vending machine, and any other eating place or establishment where meals are served, even if the serving of a meal is not the primary function of the establishment, such as, but not limited to, a convenience store, gas station, or supermarket, but only as to the portion of the establishment that serves a "meal." The term includes eating establishments whether stationary or mobile, temporary or permanent. Engaging in the restaurant business is declared to be a taxable privilege.

Section 67-4-3003. Any municipality (including metropolitan governments by ordinance or county by resolution) may levy a tax upon the gross receipts derived by each restaurant within the municipality or county from the sale or furnishing of meals.

Section 67-4-3004.

(a) The ordinance or resolution shall provide for the collection and administration of the tax. The municipality or county may administer and collect the tax itself or may contract with the state department of revenue for these services.

(b) When the municipality or county collects and administers the tax itself, it shall have all the powers the commissioner of revenue has in collecting and administering local business taxes.

(c) When the municipality or county contracts with the department of revenue to administer and collect this tax, the department shall remit the proceeds of the tax to the municipality or county levying the tax, less a reasonable amount not to exceed five percent (5%) of the total collected to cover the expenses of collection and administration. The municipality or county shall furnish a certified copy of the ordinance or resolution levying the tax to the department of revenue in accordance with regulations prescribed by the department.

Section 67-4-3005. Revenues derived from this tax shall be deposited in the municipality's or county's general fund, or such other fund as may be designated by the governing body of the municipality or county.

Section 67-4-3006. The following meals are exempt from this tax:

(1) Meals served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for charitable purposes, in furtherance of the purposes for which it was organized, and with the net proceeds of the meals, if any, to be used exclusively for the purposes of the corporation or association.

(2) Meals served or furnished, either directly or by contract, by educational institutions exempt from federal income taxes when the meals are served or furnished:

(A) To students regularly attending the institution;

(B) To employees, faculty members, or administrative officers of the institution;

(C) To volunteers providing services in connection with the institution; or

(D) To other persons if the meals are served or furnished pursuant to an activity related to the educational purpose of the institution.

(3) Meals served or furnished on the premises of any institution of the state, political subdivision of the state, or of the United States, to inmates and/or employees of the institution.

(4) Meals served or furnished on the premises of a hospital, sanitarium, convalescent home, nursing home, or home for the aged, except for meals served in any restaurant that offers its accommodations to the public.

(5) Meals furnished by any person while transporting passengers for hire by train, bus, or airplane if furnished on any train, bus, or airplane.

(6) Dispensing of a beverage by a single serving beverage machine where not used in conjunction with other food vending machines.

Section 67-4-3007.

(a) It is the duty of the owner or operator of any restaurant taxable under this chapter to transmit to the official designated as the collector of this tax by the municipal ordinance or county resolution, on or before May 30 of each year, upon the form prescribed, prepared, and furnished by the tax collecting official, information on the gross amount of sales tax owed to the state for the period covered by the return, the total gross sales of the business for the period of time covered by the return, and the total gross sales attributable to the sale or furnishing of meals, if this is different from the total gross sales.

(b) Each taxpayer who operates more than one (1) restaurant in a municipality or county shall, upon request, be furnished forms by the appropriate tax collecting official to permit the taxpayer to file a consolidated tax return for all restaurants in the jurisdiction.

(c) All forms furnished taxpayers shall contain or be accompanied by detailed instructions for completing the form.

(d) The failure of any person to obtain the necessary forms does not relieve the person of paying the tax at the time and in the manner required.

(e) In all cases the payment of the tax shall accompany the return, and failure to remit the tax causes the tax to become delinquent.

Section 67-4-3008.

(a) When any person fails to file a return or report required to be filed with the tax collector designated in the ordinance or resolution after being given written notice of the failure, the tax collector may determine the tax liability of the person from whatever source of information is available.

(b) An assessment made pursuant to this authority is binding as if made upon the sworn report or return of the taxable person. Any person against whom such an assessment is lawfully made is estopped to dispute its accuracy except upon filing a true and accurate return, together with any supporting evidence the tax collector may require, indicating precisely the amount of the alleged inaccuracy.

Secton 67-4-3009.

(a) The tax authorized by this chapter becomes delinquent on each June 1. A penalty of one-half of one percent (.5%) and interest of one-half of one

percent (.5%) of the tax due shall be added for each month or portion of a month the tax is delinquent.

(b) When a tax levied under this act becomes delinquent, the tax collector shall issue a distress warrant for the collection of the tax, interest, and penalty in accordance with procedures used in collecting delinquent ad valorem personal property taxes as prescribed in § 67-4-215.

Section 67-4-3010. If any person liable for any tax, penalty, or interest levied under authority of this act sells out the person's business or quits the business, the provisions of § 67-4-721 shall apply with regard to this tax as well as the business tax.

Section 67-4-3011.

(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 sales tax owed to the state, and the amount of the person's gross receipts taxable under this part, and any other books of account that may be necessary to determine the amount of tax. All such books and records shall be open to inspection at all reasonable hours to the tax collector.

(b) All such books and records shall be maintained for three (3) years.

Section 67-4-3012. The tax authorized by this part is in addition to all other state and local taxes.

SECTION 13. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part:

Section 67-4-3101. Each municipality and each county may by ordinance or resolution respectively assess, levy, and collect a gross receipts tax upon all persons, firms and corporations doing business within the jurisdiction. The privileges that may be taxed under the gross receipts tax include but are not limited to the following:

the privilege of selling tangible personal property at wholesale or retail; the privilege of renting or furnishing things or services; the privilege of storing tangible personal property within the jurisdiction for sale; the privilege of renting any rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist cabin, tourist court, tourist camp, motel, or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration; the privilege of operating or conducting a garage, parking lot, and other place of business for the purpose of parking or storing motor vehicles; the privilege of operating places of amusement, sports or entertainment, including billiard or pool halls, bowling alleys, amusement devices, musical devices, amusement parks, carnivals, circuses, horse shows, athletic contests, wrestling matches, prize fights, boxing and wrestling exhibitions, skating rinks, public bathing houses, public dance halls, museums, riding academies, tourist guide services, "sky-lift" services, swimming pools, shooting galleries, miniature golf courses or any other place at which any exhibition, display, amusement, or entertainment is offered to the public or place or places where an admission fee is charged.

Section 67-4-3102. The tax shall be paid by and absorbed by the person, firm or corporation carrying on any of such business or exercising any of these privileges and shall not be passed on to or paid by customers, vendees, consumers and patrons paying therefor.

Section 67-4-3103. The tax may be imposed upon individuals, firms, partnerships, corporations, estates, trusts, receivers, syndicates, and other groups or combination acting as a unit. The tax shall be paid at such times and in such manner as prescribed by ordinance or resolution of the municipality or county and rules, regulations

and procedures promulgated thereunder. The local ordinances, resolutions, rules and regulations may contain provisions deemed necessary for the prompt and efficient imposition, collection and administration of the tax herein authorized; for the filing of periodical returns by the persons liable for the tax; for the assessment and collection of the tax; for the making of refunds; for the maintenance retention and inspection of records deemed necessary to the prompt and efficient collection and remittance of the tax by the persons liable therefor; for the subpoena of persons and records, the administration of oaths and the requiring of the testimony of witnesses deemed necessary to the efficient collection, remittance and administration of the tax; for the enforcement of the collection and remittance of the tax by execution and sale of property; for notices and limitation of time within which acts must be performed relative to the collection, remittance, and administration of the tax; for the imposition and payment of interest and penalty in the case of delinquencies in the collection, remittance and administration of the tax; for the enforcement of all such ordinances, resolutions, rules, regulations and procedures by appropriate proceedings; and for making violations thereof misdemeanors and prescribing the punishment for violations by fine, forfeiture, or both.

"Gross receipts" for the purpose of this part means total receipts before anything is deducted.

Section 67-4-3104. The tax authorized by this part is in addition to all other state and local taxes.

SECTION 14. In addition to the specific authorization and delegation of powers in this act to levy taxes, municipalities, metropolitan governments, and counties may declare and tax privileges within their boundaries to the same extent that the General Assembly may do so by general or private law, with the following exceptions:

(1) No county, municipality, or metropolitan government may levy additional privilege taxes except as authorized by general law on those privileges already authorized for taxation by state and/or local governments by general law.

(2) No county, municipality, or metropolitan government may levy a tax on privileges that are declared by statute as privileges taxable by the state alone.

(3) No county, municipality, or metropolitan government may levy a tax on the privilege of providing the professional services listed in Tennessee Code Annotated, Section 67-4-708(3)(C)(i-xv).

(4) No county, municipality, or metropolitan government may levy a tax on the privilege of earning or receiving income.

SECTION 15. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following language as a new, appropriately designated section:

Section 67-4-507

(a) Notwithstanding any provision of law to the contrary, on all transfers of realty whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, any county is empowered to levy for county purposes by action of its governing body a tax on the privilege of having the same recorded, which shall be levied and collected in the same manner as the state tax levied by Section 67-4-409(a), provided that no tax under this section shall exceed ____ cents per one hundred dollars (\$100), or major fraction thereof. The tax may be levied on any transfer of realty taxable by the state under Section 67-4-409(a).

(b) No resolution authorizing such realty transfer tax shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two (2) consecutive, regularly scheduled meetings or unless it is approved by a

majority of the number of qualified voters of the county voting in an election on the question of whether or not the tax should be levied.

(c) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission two and one-half percent (2½%) of the taxes so collected. The county register in each county that has levied the tax authorized by this section shall also be entitled to charge and receive a fee of one dollar (\$1.00) for issuing a receipt for taxes collected pursuant to this section, whether this receipt is a separate document or is included within a receipt for state taxes levied by Section 67-4-409.

(d) Any oath required pursuant to subsection (a) shall not be introduced as evidence in any proceeding had in connection with any condemnation action for the purpose of indicating the value of such property.

(e) Instruments made pursuant to mergers, consolidations, sales or transfers of substantially all of the assets in this state of corporations, pursuant to plans of reorganization, are exempt from this section.

(f)

(1) The recording and re-recording of all transfers of realty in which a municipality is the grantee or transferee shall be exempt from this section.

(2) For purposes of this subsection (f), "municipality" shall have the same meaning as set forth in Section 67-4-409(f)(2).

(g)

(1) With respect to any "facility", as defined in Section 67-4-409(h)

(2) (A), the taxes paid under this section shall not exceed one hundred thousand dollars (\$100,000) in the aggregate.

(2) In order to qualify for the exception provided under this subsection, prior to the public recordation of any instrument evidencing a transfer of an interest in realty under this section, the grantee or transferee of the interest in such realty must submit a sworn statement declaring the amount of tax paid for recording instruments by or on behalf of the person, corporation, or other entity which owns, leases or otherwise operates the facility, hereinafter the "taxpayer," under subsection (a) with respect to the transfer of realty pertaining to the facility, and a copy of each receipt for the taxes paid for recording such instruments or other evidence of such payments. No tax will be due if the taxes paid by or on behalf of the taxpayer for recording such instruments pursuant to subsection (a) relating to the facility equal an aggregate amount of one hundred thousand dollars (\$100,000).

If less than the aggregate amount of one hundred thousand dollars (\$100,000) in taxes for recording instruments pursuant to subsection (a) relating to the facility has been paid by or on behalf of the taxpayer prior to the proposed recordation of any instrument evidencing a transfer of an interest in realty, the grantee or transferee of an interest in such realty must pay or cause to be paid the amount of tax due, calculated in accordance with this section, which amount shall be no more than the difference between one hundred thousand dollars (\$100,000) and the aggregate amount of such taxes paid by or on behalf of the taxpayer for recording instruments pertaining to the facility pursuant to subsection (a). In no event, however, will the aggregate amount of taxes paid for recording instruments relating to transfers of an interest in realty under

subsection (a) exceed one hundred thousand dollars (\$100,000) by or on behalf of the taxpayer.

(h) Each county levying a realty transfer tax under this section is authorized to establish a program to provide tax relief to low income, elderly or disabled persons paying the realty transfer tax on transfers of residential property levied by the county if the constitution of Tennessee is amended permitting such a program. Such tax relief shall be implemented in a manner prescribed in the resolution levying the realty transfer tax or any amendment thereto. The resolution shall also establish the qualifications of persons eligible to receive the rebate.

SECTION 16. In addition to the specific authorization and delegation of power in this act to levy fees, municipalities, metropolitan governments, and counties may levy fees, rents, tolls, or other charges relative to the use of any public facility or service. Municipalities, metropolitan governments, and counties may enact reasonable regulations to promote the public health, safety, and welfare and levy fees upon the regulated person or entity reasonably calculated to offset the costs of regulation. Any conflict between regulations of a municipality and county resulting from the exercise of powers granted by this section shall be resolved in favor of the municipality within its jurisdiction.

SECTION 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 18. This act shall take effect upon becoming a law, for the purpose of authorizing the enactment of local government ordinances and resolutions, but shall take effect

on July 1, 2005, for the purpose of the implementation of the local government ordinances and resolutions, the public welfare requiring it.