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Tennessee Clean Energy Future Act of 2009

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Table of Contents

Tennessee Clean Energy Future Act of 2009	3
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Tennessee Clean Energy Future Act of 2009

Reference Number: CTAS-617

In order to increase the state's energy efficiency, the Tennessee General Assembly enacted the Tennessee Clean Energy Future Act of 2009. 2009 Public Chapter 529. As part of this Act, the legislature amended T.C.A § 68-120-101, which provides for minimum statewide building construction standards.

Minimum statewide building construction standards existed before the passage of the Act. The standards, which include provisions relating to structural strength and stability, means of egress, and fire safety, are set by the state fire marshal and apply to state, city, county, and private buildings other than one and two family dwellings. The standards do not, however, apply to buildings in local jurisdictions that have adopted and are enforcing the International Building Code and either the International Fire Code or the Uniform Fire Code. Local jurisdictions can lose this exemption if they fail to adequately enforce the codes or if the codes they have adopted are not current within seven years of the latest edition (unless otherwise approved by the state fire marshal). For those buildings and jurisdictions that are subject to the state standards, the state fire marshal enforces the codes by reviewing and approving plans and specifications and charges fees to cover the costs.

As part of the effort to improve energy efficiency in the state, the Act amended T.C.A § 68-120-101 to add energy efficiency as an area that must be addressed in the minimum statewide building construction standards. The Act also added one and two family dwellings to the list of structures that are covered by the statewide standards. The Act did, however, exempt renovations to such one- and two- family dwellings from the statewide standards. In addition, the Act made it clear that the statewide standards will not include mandatory sprinklers for one and two family dwellings but local governments may adopt more stringent standards should they choose to do so.

The biggest, and most complex, changes to T.C.A § 68-120-101 related to exemptions available to local governments. A new provision in T.C.A § 68-120-101, not found in the prior law, allows local governing bodies to exempt their jurisdictions from the application of minimum statewide standards to one and two family dwellings regardless of whether the local jurisdiction is enforcing its own codes or has no codes at all. This exemption requires a two-thirds (2/3) vote by the local governing body and expires 180 days after the next local legislative body election (or at an earlier date set out in the resolution). Thus, should a county legislative body choose to opt out of the application of minimum statewide standards to one and two family dwellings in its jurisdiction, the exemption will only last from the effective date of the resolution until 180 days after the next county legislative body election. At such time, the county legislative body will have to pass another resolution (again, by a two-thirds (2/3) vote) should they choose to continue the exemption.

Should a local governing body change its mind about exempting its jurisdiction's one and two family dwellings from minimum statewide construction standards, the Act does permit local governing bodies to reverse their action at any time by a simple majority vote. Taking such action would make one and two family dwellings subject to the minimum statewide construction standards. Under the Act, local governing bodies are required to transmit any resolutions done under T.C.A § 68-120-101, whether they are opting out or back in, to the state fire marshal's office.

Effective May 4, 2017, residents in counties that have opted out of statewide residential building codes are authorized to request the state fire marshal to inspect their buildings for compliance with the statewide code. T.C.A § 68-120-101(b)(1).

As in the prior version of T.C.A § 68-120-101, local government jurisdictions can be exempt from statewide standards by enforcing standards themselves. The Act revises the criteria for this exemption. Under the Act, in order for local government jurisdictions to be exempt from the minimum statewide standards, they must demonstrate one of the following:

1. The local government has chosen to adopt and enforce building codes for all types of buildings and it has adopted the International Residential Code (for one- and two-family dwellings), the International Building Code (for all other types of buildings), and either the International Fire Code or the Uniform Fire Code; or
2. The local government has chosen to adopt and enforce building codes for all types of buildings other than one- and two-family dwellings and it has adopted the International Building Code and either the International Fire Code or the Uniform Fire Code; or
3. The local government has chosen to adopt and enforce building codes for one- and two-family dwellings only and it has adopted the International Residential Code and either the International Fire Code or the Uniform Fire Code; or

4. For one-family and two-family construction, the local government has adopted the International Energy Conservation Code, published by the International Code Council, and such Code is not more stringent than the state minimum standards.

To remain exempt, local jurisdictions must adequately enforce the codes and review plans and specifications and conduct inspections. And, as with the prior law, the codes adopted by local jurisdictions must be current within seven years of the date of the latest editions.

The Act provides that the state fire marshal will enforce minimum statewide standards with respect to buildings for which the local jurisdiction has not adopted and is not enforcing codes. For example, if a local jurisdiction has adopted and is enforcing codes for all buildings other than one and two family dwellings, the state fire marshal will enforce the minimum statewide standards for the one and two family dwellings (unless the governing body has exempted out one and two family dwellings as explained above)

The provisions of the Act amending T.C.A § 68-120-101 became effective on July 1, 2010.

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