

SENATE BILL 1733

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6 and Title 67, Chapter 5, relative to tree
canopies.

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

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 5, Part 2, is amended by
adding the following as a new section:

(a)

(1) As used in this section:

(A) "Board" means the state board of equalization;

(B) "Implementing agency" means the county planning
commission, assessor of property, or county board of equalization,
operating individually or in conjunction with each other under this section;

(C) "Tree canopy":

(i) As determined by an urban tree canopy study, means
the branches, leaves, stems, and other foliage from woody
vegetation, which cover real property when viewed from above the
canopy, measured as a percentage of shaded land area within the
tree dripline;

(ii) As determined by aerial imagery, means a contiguous
area of at least five thousand square feet (5,000 sq. ft.) that
includes the layer of leaves, branches, and stems of trees that
cover the ground when viewed from above; and

(iii) As determined by field survey, means a contiguous area of at least five thousand square feet (5,000 sq. ft.) that includes the critical root zone of one foot per inch of diameter at breast height of a group of trees that are at least six inches (6") at breast height; and

(D) "Tree dripline" means the outermost circumference of a tree canopy from which water drips onto the ground.

(2) Persons may apply for a property tax exemption for those portions of real property that provide tree canopy, as determined by the implementing agency.

(3) The implementing agency shall determine the portion of real property that provides tree canopy using reliable, objective means of quantitative assessment, including, but not limited to, an urban tree canopy study, high-resolution aerial imagery, or field-based visual assessment.

(4)

(A) The property tax exemption authorized under this section only applies to the portion of real property that provides tree canopy.

(B) If only a portion of real property is located under tree canopy, then such real property is exempt from taxation only to the extent of the value of that portion, and the remaining portion of such property is subject to taxation.

(C) No person may be granted a property tax exemption on more than one (1) parcel of real property, and an exempt portion of property may not include more than five (5) acres.

(b)

(1) The chief administrative officer of the county, subject to approval by majority vote of the county governing body, shall select the implementing agency responsible for determining tree canopy coverage. The implementing agency selected and approved under this subdivision (b)(1) must be reviewed annually to determine whether a new implementing agency should be selected and approved.

(2) The implementing agency shall determine the portion of tree canopy sheltering real properties upon the submission of an application for a tree canopy property tax exemption as prescribed under this section.

(3) The implementing agency shall formulate application formats and application requirements for the property tax exemption. The implementing agency may develop additional criteria for the property tax exemption, subject to the review and approval of the state board of equalization and subsequent approval by the county governing body by resolution.

(4) The implementing agency shall set the value of the exemption granted under this section.

(5) The county government may determine whether to apply the property tax exemption authorized under this section to either residential properties, commercial properties, or both types of properties.

(c)

(1)

(A) An owner of real property claiming a tree canopy property tax exemption under this section must file an application for the exemption with the state board of equalization on a form prescribed by the board and provide all information required by the board to determine whether the

property qualifies for the exemption. An application is deemed filed on the date it is received by the board or, if mailed, on the postmark date.

(B) The owner must provide a copy of the application with any supporting materials to the assessor of property of the county in which the property is located.

(2)

(A) The board shall make an initial determination granting or denying an exemption through its staff designee, who shall send written notice of the initial determination to the applicant and to the assessor of property. Written notice includes notification by electronic means and such notice may be preserved in digital or electronic format.

(B)

(i) An application for an exemption under this section or any other section referring to these procedures is considered an appeal for purposes of § 67-5-1512.

(ii) Either the applicant or the assessor of property may appeal the initial determination to the board and is entitled to a hearing prior to any final determination of exemption under this section.

(3) A property that is subject to the application requirements is not exempt from being taxed unless the application has been approved in writing by the board.

(4) The exemption is not transferable or assignable upon its approval, and the applicant must promptly report to the assessor any change in the use or

ownership of the property or removal of tree canopy that could affect the property's tax exempt status.

(5) The board may, by rule, impose a filing fee for processing applications for the exemption. The implementing agency may also, by rule, impose a filing fee for processing applications for the exemptions. In each instance, the filing fee must not exceed one hundred twenty dollars (\$120) and must be proportionate to the value of the property at issue.

(d)

(1) All real property granted an exemption from taxation under this section must be certified in accordance with the criteria adopted pursuant to this section. The tax exemption certified in accordance with this section continues in effect throughout the property value assessment period applied by the county assessor of property, but the exemption shall not continue in effect for more than seven (7) years from the date the exemption was first granted unless the implementing agency determines that it is reasonable to continue the exemption an additional seven (7) years, whereupon the implementing agency shall recertify the real property granted the exemption previously pursuant to this section.

(2) At the end of the approved exemption period, the assessor of property shall reassess the value of the real property, which is then taxed on the basis of its full market value.

(3) If, during the period the tax exemption is in effect, the real property is determined by the implementing agency to have tree canopy coverage in an amount less than previously determined, the exemption is void and of no effect, and the owner is liable for any difference between the tax paid and the tax that would have been due on such property.

(4) The tax exemption and restrictions under this section apply only to the real property.

(e) This section only applies when the county governing body elects, by a two-thirds (2/3) majority vote, to come under its provisions.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.