

**Department of State
Division of Publications**

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Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Comptroller of the Treasury
Division:	State Board of Equalization
Contact Person:	Betsy Knotts
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0600	Assessment of Commercial and Industrial Leasehold Interests
Rule Number	Rule Title
0600-14-.01	Applicability
0600-14-.02	Definitions
0600-14-.03	Assessable Leasehold Interests
0600-14-.04	Valuing Commercial and Industrial Leasehold Interests

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

0600-13-.01 APPLICABILITY.

Unless otherwise provided herein these rules shall govern the procedure for valuation of any industrial and commercial Leasehold Interest held by a non-governmental entity in real property owned by the United States government, the State of Tennessee, any county, or any incorporated town, city or taxing district, or any agency or political subdivision thereof.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-13-.02 DEFINITIONS

As used in these rules and in interpretation of T.C.A. § 67-5-502 and T.C.A. § 67-5-605, unless context requires otherwise:

- (1) "Taxable Interest" means an interest in real property subject to assessment and taxation.
- (2) "Leasehold Interest" means an interest in real property under the terms of a lease or agreement for a specified period of time.
- (3) "Leasehold Owner" means the owner of the current Leasehold Interest, typically the lessee.
- (4) "Real Property Interest" means an interest in real property arising from the combination of a physical relationship to the property that confers a degree of physical control over the property and the intent to exercise such control to the exclusion of others. Neither the right to use nor the right to enter and leave property is sufficient to create a Real Property Interest.
- (5) "Actual Rent" means rent or other compensation paid under a lease or similar agreement.
- (6) "Imputed Rent" means those costs paid by the lessee that are typically borne by the lessor or owner of the property, including the cost of capital improvements, real property maintenance, and the cost of insurance. The term of the lease or other agreement, including optional renewal terms, shall be used for purposes of amortizing the cost of real-property, capital, or other improvements borne by the Leasehold Owner.
- (7) "Fair Market Rent" means the fair market annual rental value for a Leasehold Interest based upon rents paid to lease comparable properties.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-13-.03 ASSESSABLE LEASEHOLD INTERESTS

In order for a Leasehold Interest to create a Taxable Interest:

- 1) The fee interest in the real property must be exempt from property taxes;
- 2) The property must be used primarily for the private benefit of the lessee with any public purpose being only incidentally served;
- 3) The lease must convey a Real Property Interest in the subject property to the lessee;
- 4) The property must not otherwise be the subject of a lawful agreement between a lessee and a local government, or instrumentality thereof, for payments in lieu of taxes entered into or amended on or after April 30, 2019; and
- 5) The Leasehold Interest must have a taxable value.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

0600-13-.04 VALUING COMMERCIAL AND INDUSTRIAL LEASEHOLD INTERESTS

The value of the excess, if any, of the Fair Market Rent over the Actual Rent and Imputed Rent must first be determined. If the Fair Market Rent for a subject property is equal to or less than the combination of the Actual Rent and the Imputed Rent, then the Leasehold Interest has no taxable value. If the Fair Market Rent for a subject property exceeds the combination of the Actual Rent and the Imputed Rent, then the excess, calculated on an annual basis, is discounted over the remaining term in years, including optional renewal terms, to its present value as of the appraisal date represents the taxable value of the Leasehold Interest.

Authority: T.C.A. §§ 67-1-305, 67-5-605, 67-5-502(d).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

Agency/Board/Commission: _____

Rule Chapter Number(s): _____

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(Insert statement here)

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Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

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Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.