



# TACIR

The Tennessee Advisory Commission  
on Intergovernmental Relations



7

226 Anne Dallas Dudley Blvd., Suite 508  
Nashville, Tennessee 37243-0760  
Phone: (615) 741-3012  
Fax: (615) 532-2443  
[www.tn.gov/tacir](http://www.tn.gov/tacir)

## ***MEMORANDUM***

**TO:** Commission Members

**FROM:** Cliff Lippard *Cliff*  
Executive Director

**DATE:** 13 December 2018

**SUBJECT:** Public Chapter 693, Acts of 2018 (Excess Property)—Draft Report for  
Review and Comment

The attached Commission report is submitted for your review and comment. It was prepared in response to Public Chapter 693, Acts of 2018, which directs the Commission to determine the amounts of non-tax-producing properties held by state and local governments—including recommendations regarding the highest and best uses of these properties and ways for making them productive—and report its findings to the General Assembly by March 1, 2019.

In July 2016, the city of East Ridge, Tennessee celebrated the grand opening of a major retail development that promised to bring jobs and tax revenue to the community. A portion of the project was built on excess right-of-way property that the Tennessee Department of Transportation (TDOT) had owned for years after completing a welcome center along Interstate 75. The legislation directing this Commission report was introduced by Representative Mike Carter and Senator Bo Watson, asking how much unused, tax-exempt land is owned by the state and local governments, and how could more surplus property like that found in East Ridge be used for development that generates tax revenue?

In an attempt to determine the amount of government-owned property in Tennessee, staff collected data from the Tennessee Comptroller of the Treasury Division of Property Assessments and the Comptroller's Office of Local Government, as well as several individual county governments. Because these data were originally collected by the Comptroller's Office for property assessment purposes, they were not intended to

serve as a property management inventory and do not always include detailed information about a property’s use or whether it has been—or could potentially be—declared surplus. The total land area in Tennessee is about 26.4 million acres. Total government ownership statewide is shown in the following table, and county-level data is shown in Appendix B of the report.

**Table 1. Government-Owned Property in Tennessee, 2018.**

Federal acres	State acres	County acres	City acres	Total Government acres	Total Land acres
1,300,316	1,174,028	163,386	114,570	2,518,199	26,390,386
4.9%	4.4%	0.6%	0.4%	10.4%	

Sources: US Census Bureau Geography Division, Tennessee Comptroller of the Treasury Office of Local Government, State of Tennessee Real Estate Asset Management Division of the Department of General Services, and several individual county governments. State-owned acreage includes an estimate of ROW land from the Tennessee Department of Transportation. Data for Shelby County, shared with permission by the OLG, was unable to be processed at the time of this draft, and Williamson County did not respond to requests for permission to use their data before this draft was published.

Over the past several years, the federal government and some states have recognized a need to evaluate and manage government property holdings more effectively. At the state level in Tennessee, though it appears that progress towards more strategic real estate management is being made, better collection and reporting of state property information by state agencies is needed if the state is to improve its ability to evaluate potential surplus property and determine where property might be put to more productive uses.

The Tennessee Department of General Services (DGS), State of Tennessee Real Estate Asset Management (STREAM) Division is responsible for managing an inventory of the state’s real estate assets and disposing of unneeded surplus as determined by individual agency needs. To abide by its guiding principle that program requirements and government initiatives should drive real estate strategies, STREAM has worked to partner with 23 state agencies to develop strategic real estate plans but has completed plans with just 12. Current law requires state agencies to report their real property assets to STREAM, but agencies are not required to report property use information or develop strategic real estate plans with STREAM.

When asked about the state’s efforts to reduce its real estate portfolio by eliminating unneeded buildings and property, STREAM staff stated that some types of government

property (e.g. wildlife and environmental land) have increased, while the state has reduced its use of leased space and consolidated operations among agencies in state-owned buildings. Several surplus properties are currently listed for sale on the state's website. STREAM staff says the state has made significant progress toward more effective property management; however, additional information from other state agencies on their future real estate needs and current property uses would help STREAM ensure that state-owned properties are used most efficiently and determine which properties may be surplus and be considered for a better use—whether public or private.

**The state could require all state agencies to submit annual real property plans and property use information to STREAM, as is done by the US General Services Administration (GSA), and other states such as California, Connecticut, Georgia, North Carolina, South Carolina, and Texas. However, many of these states report that even with the legislative requirement to submit real estate plans and property usage, some agencies do not fully comply because there is no consequence for non-participation. For this reason, the state could consider making real estate plans and property use reports part of each agency's budget process, as is currently being done in Georgia as a prerequisite for departmental budget approval.**

In addition to real estate plans and use reports, the GSA and some states have established real property advisory groups that bring land-holding agencies together to collaborate on the highest and best use for their real estate assets. The federal government established an interagency Real Property Council in 2004 to “promote the efficient and economical use of America's real property assets,” and federal law requires agencies to report annual assessments and property use information to the GSA. This combination of agency collaboration and reporting requirements can serve as a model for improving Tennessee's real estate asset management framework.

Excess transportation right-of-way (ROW)—like that which was developed in East Ridge—is not included in STREAM's inventory, and has not historically been quantified and actively managed by TDOT. The department has recently implemented a new Integrated ROW Information System (IRIS), and although it is working to identify excess ROW, the department says it lacks the dedicated staff resources it would take to prioritize a comprehensive inventory. Therefore, the exact amount of ROW remains an unknown component of the state's total property footprint. However, using standard roadway design criteria and associated ROW requirements, TDOT estimates that at the end of state fiscal year 2017 it owned approximately 217,962 acres of ROW, valued at approximately \$1.8 billion—most of which is in use or needed for highway purposes.

**The report recommends not only that all agencies submit annual real property plans and property use information to STREAM, but that TDOT include ROW property in its submission; this would require TDOT to first complete an inventory of all its ROW property and determine which properties are needed and which are excess.** There is an existing process in state law for selling excess TDOT ROW property, and Tennessee is similar to most other states in that the DOT is the agency responsible for administering this process. TDOT's current practice is not to actively market excess property, only responding to requests when contacted. While the report does not recommend any changes to the statutes governing surplus ROW disposal, it does **recommend both that TDOT actively market its surplus ROW property for sale—as is done in several other states—and that STREAM and TDOT work together to integrate surplus TDOT properties with the overall surplus property strategy for the state.**

To further ensure the most efficient management of the state's real property assets, stakeholders from STREAM, TDOT, and other state agencies have stressed the importance of expanding Geographic Information Systems (GIS) technology. GSA relies on GIS to ensure the highest and best use of real property, and other states, including Georgia and Texas, report that GIS provides useful information to make decisions related to the highest and best use for real estate assets, describing it as "a hugely important tool for property management," and "invaluable . . . a critical tool, relied upon by internal agency staff, as well as external companies and individuals." Benefits could be gained across many different government functions in Tennessee, from property assessment, to facility management, public safety, risk management, and economic development. **The state could require that GIS tools be integrated with the STREAM inventory of state-owned property to provide for more robust analysis and help promote the highest and best use of the state's real estate assets.**

In addition to improving property management at the state level, TACIR staff sent an online survey to all counties and cities in Tennessee asking what types and how much property local governments own, and how they approach disposal of surplus. Through the survey responses, follow-up telephone interviews, and in testimony before the Commission, local governments reported that most of their surplus property was acquired as tax-delinquent property, which can be difficult to sell because of the time and money needed to establish clear title for potential buyers and developers.

Land banks are one tool that can make this process easier for local governments. Land banks are a special type of quasi-governmental entity created to help communities cope with vacant, abandoned and tax-delinquent properties. They have statutory authority

to establish “quiet title” (i.e., clear title) for properties that they hold, and have been used in some states for more than twenty years.

A pilot Tennessee Local Land Bank Program was created in 2012, limited only to Oak Ridge. The General Assembly has since extended the authority to establish a land bank to a few other cities and counties, but the ability to establish land banks could be expanded. **The General Assembly could assist local governments with the management of real property—as suggested in the Commission’s 2012 report, *Dealing with Blight: Strategies for Tennessee’s Communities*—by authorizing any city or county to establish a land bank.**

Interviews of local government officials also revealed that most local governments have a limited ability to market what surplus property they do want to sell. Most advertise property in local newspapers, and only some have a website to advertise the surplus property. **The state could help local governments reach a wider audience of potential buyers by allowing local governments to post links to their surplus properties—including hard-to-sell tax-delinquent properties—on the state’s website where the state advertises its surplus property.**

Further, surveys of local government officials indicated that a few wish for their government to acquire state-owned surplus property, but feel they may not be fully informed about what potential surplus property the state has in their area. STREAM staff said they routinely go beyond the legal requirement to notify legislators about the surplus property by also notifying local government officials. **But the state could ensure a more comprehensive approach to property management, as is done in California, Connecticut, Georgia, Virginia, and Washington, by always notifying local government officials of state-owned surplus property that is available in their jurisdiction before offering the property to the public for sale.**

Finally, many local governments staff interviewed reported that they do not have any formal planning or management process for real property. Training empowers government officials with the knowledge and tools they need to manage real property effectively and the GSA offers training for federal employees on topics including real estate laws, asset management strategies, reporting requirements, disposal process, and regulations related to environmental and historic preservation compliance to ensure these officials have the knowledge necessary to effectively manage federal real property assets.

As TACIR staff interviewed personnel from the University of Tennessee’s County Technical Assistance Service (CTAS) and Municipal Technical Advisory Service

(MTAS), it was clear that both organizations have a long track record of providing training for local governments on best practices. **The state could offer training on best practices for real property management for county and city officials to promote the highest and best use of the local government-owned surplus property.**