

State of Tennessee



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Senator Carl R. Moore
Suite 10
Legislative Plaza
Nashville, Tennessee 37219

Dear Senator Moore:

You have requested the opinion of this office in regard to the following question:

QUESTION

Does House Bill 2253 preempt local zoning ordinances?

OPINION

It is the opinion of this office that House Bill 2253, codified in T.C.A. §13-24-201, preempts local zoning ordinances contrary to its provisions.

ANALYSIS

House Bill 2253, codified in T.C.A. §13-24-201, provides as follows:

Notwithstanding any provision of the law to the contrary, no power or authority granted by this Code to regulate zoning or land use planning shall be used to exclude the placement of a residential dwelling on land designated for residential use solely because the dwelling is partially or completely constructed in a manufacturing facility; provided, however, that the term "residential dwelling" as used in this chapter shall not apply to factory-manufactured mobile homes constructed

as a single self-contained unit and mounted on a single chassis, and as further defined in §68-36-202, subdivisions (2), (4), and (8), nor shall this chapter have any effect whatsoever upon any zoning or other regulations whether state or local concerning such factory-manufactured mobil homes as herein defined.

In general, zoning power is granted to county and municipal legislative bodies under T.C.A. §§13-7-101 and 13-7-201, respectively. As a general rule, the county legislative body has only such power and jurisdiction as is vested in it by statute. See Mosier v. Thompson, 216 Tenn. 655, 393 S.W.2d 734 (1965); Epps v. Washington County, 173 Tenn. 373, 117 S.W.2d 749 (1938). County and municipal bodies have zoning power only to the extent that such power is granted to them by the legislature. Clearly, therefore, the legislature has the authority to limit local governmental zoning powers to whatever extent it deems proper.

Therefore, to the extent that local zoning ordinances are contrary to the provisions of T.C.A. §13-24-201, it is the opinion of this office that such ordinances are thereby preempted.

Respectfully submitted,


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