



# County Technical Assistance Service

Published on e-Li (<http://eli.ctas.tennessee.edu>)

January 21, 2019

## Residency Requirements

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily 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 e-Li material.

Sincerely,

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## Residency Requirements

**Reference Number:** CTAS-1079

Under a state law found at T.C.A. § 8-50-107, county employers can require all new employees hired after a certain date to be residents of the county, but counties cannot dismiss or penalize current employees solely on the basis of non-residence in the county.<sup>[1]</sup> Because county government is the servant of the area lying within its jurisdiction, a county may want to adopt a requirement that employees reside within the county. A residency requirement could be viewed as a method of providing job opportunities to residents who pay taxes in a particular county. A county employer that desires to enact a residency requirement should make it effective for all employees hired after the creation of the policy. In order to avoid requirements that could impact some group or class of people in a discriminatory way, new employees should be given time to comply with the residency provisions if they do not already live in the designated area..<sup>[2]</sup>

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[1] Op. Tenn. Att'y Gen. U91-137 (Nov. 19, 1991); Op. Tenn. Att'y Gen. U91-138 (Nov. 19, 1991). T.C.A. § 8-50-107 does not apply to counties having a metropolitan form of government nor to counties with populations between 275,000 and 400,000 according to the 1970 or any subsequent census.

[2] The constitutionality of governmental employers imposing residency requirements is discussed in Op. Tenn. Att'y Gen. 01-007 (Jan. 17, 2001), wherein the Attorney General opined that such requirements are considered constitutional under the Commerce Clause, the Privileges and Immunities Clause, and, as long as a rational basis for the requirement exists, under the Equal Protection Clause of the United States Constitution, as well as under the Tennessee Constitution. See *Civil Service Merit Bd. of City of Knoxville v. Burson*, 816 S.W.2d 725 (Tenn.1991). See also Op. Tenn. Att'y Gen. 12-92 (Oct. 3, 2012).

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