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Security Interest Sales

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained 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 CTAS website material.

Sincerely,

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Reference Number: CTAS-1610

If any individual, partnership, joint venture, corporation, or other legal entity owns tangible or intangible personal property, assessable by the county assessor or other authority and then sells the personal property pursuant to the provisions of T.C.A. §§ 47-9-101 *et seq.*, the party possessing the security interest must withhold from the proceeds of the sale an amount sufficient to satisfy the personal property taxes assessed under T.C.A. § 67-5-2101 and subject to the provisions of T.C.A. § 67-5-1805. A secured party selling the property who fails to withhold and pay such amount is personally liable for such amount to the trustee or other collecting official to which these personal property taxes are due.¹ Any action to enforce the provisions of T.C.A. § 67-5-2003(h) must commence against the secured party as a named defendant within four years of the assessment date. Any amount paid by or collected from a secured party pursuant to T.C.A. § 67-5-2003(h) reduces by that same amount the balance due by the taxpayer to the trustee or other collecting official who has been paid, and such amount also becomes a new obligation of payment by the delinquent taxpayer to the secured party, regardless of contractual limitations to the contrary.²

¹T.C.A. § 67-5-2003(h). *State, ex rel. Davis v. A & F Const.*, 2009 WL 499421 (Tenn.Ct.App. 2009).

²T.C.A. § 67-5-2003(h). *See also* T.C.A. § 67-5-1805(c). 2010 Public Chapter 1007 (payment of delinquent taxes by PMSI holder); *Williamson County v. A&F Construction*, 2009 WL 499421 (Tenn.Ct.App. 2009).

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