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Disposition of Property Purchased by County at Tax Sale

Dear Reader:

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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-2188

In 2024, the Legislature enacted Public Chapter 967, which rewrote T.C.A. § 67-5-2507 and became effective September 1, 2024.

The county mayor shall cause a certified copy of all orders confirming the sale of a parcel to the county pursuant to T.C.A. § 67-5-2501 to be recorded in the office of the register of deeds of the county. It is the duty of the county mayor of each county to take charge of all parcels purchased by the county at a delinquent tax sale pursuant to T.C.A. § 67-5-2501.

The county legislative body may adopt regulations concerning sales of parcels purchased by the county at a delinquent tax sale. The regulations must be designed to promote a fair, effective, competitive, and transparent method of disposing of the parcels so as to attain the highest bid for each parcel. The regulations may include:

- That parcels may be sold on credit and the terms thereof;
- That parcels may be sold for amounts less than the full amount owing in the tax proceeding, the conditions upon which such a sale may take place, and whether such a sale shall be approved by the county legislative body;
- Other similar issues regarding the procedures of sale; and
- Procedures, terms, and conditions applicable to conveyances of a parcel pursuant to T.C.A. § 67-5-2507(b).

T.C.A. § 67-5-2507(a)(1)-(2).

Procedure for Sale

Unless otherwise required by the regulations adopted by the county legislative body, each parcel must be offered for sale with no minimum bid or approval by the county legislative body required. The county mayor may solicit offers for one or more individual parcels or for all parcels on a list prepared pursuant to T.C.A. § 67-5-2511. Any solicitation of offers must contain a statement as to how and where offers may be filed, and must be published in a newspaper of general circulation in the county.

Upon a written offer being made to purchase a parcel the county mayor shall cause to be published a notice of the details of such offer with a description of the parcel. During the ten-day period following the date of such publication, if a person files with the county mayor or the county mayor's designee a written offer to increase the advertised offer by ten percent (10%) or more, the county mayor or designee shall give notice to those persons filing offers to appear at a certain time, date, and location and shall post the notice at a place available to the general public. At such time, date, and location, the county mayor or the county mayor's designee shall conduct an auction of the parcel with the starting bid being the highest written offer received prior to the auction. All persons are eligible to offer bids at the auction. The highest bidder at such auction is the successful bidder. If no raise offer is timely filed, the original bidder is the successful bidder.

T.C.A. § 67-5-2507(a)(4)(A).

The county mayor may approve the sale by internet sale of parcels purchased by the county at a delinquent tax sale pursuant to T.C.A. § 67-5-2501. T.C.A. § 67-5-2507(a)(4)(A) may be waived by the county mayor as to parcels offered for sale by internet sale. The highest bidder at such internet auction is the successful bidder.

T.C.A. § 67-5-2507(a)(4)(B).

Upon compliance with this section, the parcel must be released from all taxes, penalties, interest, and

court costs owing all tax entities, up to the date of the conveyance subject only to any current year taxes that may not have been paid pursuant to this section.

Any conveyance or retention of a parcel that occurs before the expiration of the redemption period provided in part 27 of this chapter remains subject to the right of redemption. A conveyance or retention of a parcel does not affect the redemption period applicable to the parcel.

The county mayor is not required to seek approval of the county legislative body to supervise the sale and conveyance of each parcel unless:

- Otherwise required by the regulations adopted by the county legislative body; or
- The county legislative body has determined to retain or convey the parcel pursuant to .C.A. § 67-5-2507(b).

T.C.A. § 67-5-2507(a)(6)-(8).

Proceeds from the Sale

The proceeds derived from retentions or conveyances of parcels purchased by the county at a delinquent tax sale pursuant to T.C.A. § 67-5-2501 must be applied in the following order:

- First, proceeds must be applied to reimburse the taxing entity for amounts paid by the taxing entity for the purchase of the parcel in the tax proceeding or which remain owing by the taxing entity;
- Any proceeds remaining after the application of proceeds as provided above, must be applied first to unpaid attorney fees allowed in the tax proceeding, then to other unpaid court costs, and then divided on a pro rata basis based upon the taxes levied against the parcel by the county and any other taxing entity which has filed a proceeding as defined in T.C.A. § 67-5-2502;
- Any proceeds remaining after the application of proceeds as provided above, must be applied to pay other taxes and accrued interest, penalties, and court costs, owed to the county and any other taxing entity on a pro rata basis, based upon the amounts of taxes owing each; and
- Any proceeds remaining after the application of proceeds as provided above, inure to the benefit of the county.

T.C.A. § 67-5-2507(a)(5).

Retention of Parcel by the County

The county legislative body may determine that it is in the best interest of the county to retain a parcel purchased by the county pursuant to T.C.A. § 67-5-2501 to use the parcel for a public purpose. The county may retain ownership of the parcel, or it may, subject to such terms as may be agreed upon, transfer ownership of the parcel to:

- A governmental entity, including a corporation created pursuant to the Tennessee Local Land Bank Program, compiled in Title 13, Chapter 30; or
- A nonprofit entity; provided, that the parcel is transferred in accordance with T.C.A. § 67-5-2507(b)(3).

A document evidencing the determination of the county legislative body to retain ownership of a parcel must be recorded in the office of the register of deeds.

T.C.A. § 67-5-2507(b)(1)-(2).

Transfer of Parcel by the County

To be eligible to receive a parcel, a nonprofit entity shall comply with the following requirements:

- The entity must be exempt from federal income taxation under § 501(a) of the Internal Revenue Code (26 U.S.C. § 501(a)), or an organization described in § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c));
- The entity shall agree that the conveyed parcel must be used by the entity for at least a reasonable period for the purposes for which the entity was chartered; and
- The entity is chartered to:
 1. Construct or to restore residential dwellings for the purpose of creating affordable and habitable housing for the disadvantaged and needy citizens of the community;
 2. Construct or to restore historical properties or buildings in the community;
 3. Operate or maintain a community garden in the community; or
 4. Construct, operate, or maintain a park, memorial, or gathering place in the community, available for use by the general public.

T.C.A. § 67-5-2507(b)(3).

Conveyance of Parcel by the County

Conveyances of parcels must be made without warranties by the county. Deeds must be executed by the county mayor. The execution of a deed constitutes a certification by the county that all procedures and rules of the county have been complied with and that all interest of the county in the parcel is being conveyed. The certification must not be overturned absent clear and convincing evidence of a substantial and material violation of a statutorily mandated requirement.

T.C.A. § 67-5-2507(c).

Rescinding the Prior Delinquent Tax Sale

If the county mayor determines, prior to the sale of a parcel, that there may be a defect in the title to the parcel, the county mayor may move the court in which the parcel was sold in the tax proceeding to take action to cure the defect. A diligent effort to give notice of any such motion must be made as to all interested persons as of the date of the filing of the motion.

If a municipality does not authorize the county to convey its interest in tax parcels pursuant to T.C.A. § 67-5-1801(a), or if a municipality files a complaint to collect delinquent property taxes owing the municipality separate from the complaint filed by the county to collect delinquent property taxes owing the county, the municipality's governing body and chief executive officer shall dispose of the parcels purchased by the municipality at a delinquent tax sale, in accordance with this section and T.C.A.

§ 67-5-2511. In such event, the municipality's legislative body has the powers and duties of the county legislative body as set out in this section and T.C.A. § 67-5-2511; its chief executive officer has the powers and duties of the county mayor as set out in this section and T.C.A. § 67-5-2511; and the municipality stands in the place and stead of the county.

As to a particular parcel conveyed to a county pursuant to T.C.A. § 67-5-2501, the county mayor may make an evaluation of the parcel to determine whether the value of the parcel or amount of money the county is likely to receive if the county sold the parcel, exceeds the financial or environmental risks associated with the parcel.

If the county mayor determines that such risks exceed the value of the parcel, the county legislative body may adopt a resolution, by a two-thirds ($\frac{2}{3}$) vote, concurring in the county mayor's determination and directing the county mayor to request relief from the court in which the parcel was sold. Such relief must be sought by motion pursuant to Rule 60 of the Tennessee Rules of Civil Procedure filed within one hundred twenty (120) days after the entry of the order confirming the sale.

If the court finds that the motion should be granted, the court may rescind its prior order upon such terms as are just. If the prior order is rescinded, title to the parcel must be deemed to have remained in that state that existed as of the date of entry of the prior order confirming the sale. The court has broad discretion to ensure that this subsection (f) does not result for any period of time in the creation of a parcel for which a person or entity does not have responsibility. The court may then appoint a special master and

direct the special master to conduct a second sale of the parcel upon such terms and conditions as may be ordered by the court, including the reduction or elimination of the minimum bid which may be accepted at the sale.

As an alternative to ordering a second sale or if a person does not present a bid at the second sale of the parcel, the court may thereafter approve a negotiated sale of the parcel upon such terms and conditions as may be ordered by the court. The court may allow an additional fee to the delinquent tax attorney for services rendered in regard to a negotiated sale of a parcel as provided in this chapter.

Subsection (f) applies to the risks of an individual parcel only and does not apply to the aggregated risks of all or multiple parcels bid in to the county pursuant to T.C.A. § 67-5-2501.

T.C.A. § 67-5-2507(d)-(f).

Listing of Parcels Owned by County

Pursuant to T.C.A. § 67-5-2511, the county mayor must prepare and maintain a listing of all parcels owned by the county acquired pursuant to T.C.A. § 67-5-2501.

The chief executive officer of a municipality must cause to be prepared and maintained a listing of all parcels owned by the municipality acquired pursuant to T.C.A. § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county.

The listing must be prepared no later than July 1, 2018. The listings shall be published in a newspaper of general circulation in the county or posted on the local government website with a notice of the posting published in a newspaper of general circulation in the county.

At least annually, the county mayor shall determine if any additional parcels have been purchased by the county pursuant to T.C.A. § 67-5-2501 and shall publish an updated list, as necessary, in the same manner as the original list.

Each published list or notice may contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.

Parcels acquired by the county which are identified by the county mayor, or the mayor's designee, as being in an area or zoning classification that would make the accumulation of larger areas advantageous to the reuse and redevelopment of the parcels, may be excluded from the list of parcels prepared and maintained under T.C.A. § 67-5-2511 until a sufficient number of parcels or property has been acquired to improve the marketability and redevelopment profile of the parcels. In no event shall this accumulation result in property being held without being published for more than five years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.

T.C.A. § 67-5-2511(a)-(d).

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