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## Disposition of Property Purchased by County at Tax Sale

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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 e-Li material.

Sincerely,

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## Disposition of Property Purchased by County at Tax Sale

**Reference Number:** CTAS-2188

It is the duty of the county mayor of each county to take charge of all the lands bought in by the county at a county delinquent tax sale. During the redemption period of any tract of land, the land shall be:

Held and put only to a use that will not result in a waste of the land; or

Sold to a third party, in accordance with T.C.A. § 67-5-2507(b), subject to the right of redemption. If any parcel is sold subject to redemption, it may be redeemed in accordance with T.C.A. § 67-5-2701.

After the period of redemption has elapsed, it shall be the duty of the county mayor to arrange for the disposition of every tract of such land as expeditiously and advantageously as possible unless parcels acquired by the county 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 parcels' reuse and redevelopment. In such cases, the mayor may hold those properties until a sufficient number of parcels or area has been acquired to improve the parcels' marketability and redevelopment profile. In no event shall this accumulation result in property being held without being marketed for more than five years.

If the county mayor determines, prior to the sale of a parcel brought in by the county at a delinquent tax sale, 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 shall be made as to all interested persons as of the date of the filing of the motion.

T.C.A. § 67-5-2507(a).

### **Procedure for Sale**

A committee of four members shall be elected by the county legislative body, from the county legislative body, who, together with the county mayor, shall place a fair price on each tract of land, for which price the land shall be sold.

In counties having adopted the County Financial Management System of 1981, the financial management committee created by T.C.A. § 5-21-104 may serve as this committee, instead of the committee established above.

The committee may authorize the sale of any tract of land upon such terms as will secure the highest and best sale price, but the credit extended shall not exceed three years and a lien shall be retained to secure purchase price.

No tract of land shall be sold for an amount less than the total amount of the taxes, penalty, cost and interest, unless the legislative body, upon application, determines that it is impossible to sell the tract of land for this amount, and grants permission to offer the land for sale at some amount to be fixed by such legislative body.

Interest is calculated on the full amount of the taxes, penalty, cost and interest from the time of the acquisition of the land by the county until the sale thereof.

Whenever the sale of a tract of land is arranged by the county mayor, the deed shall not be executed and the sale shall not become final until ten days after the publication in a newspaper published in the county of a notice of the proposed sale, the name of the purchaser and the terms, conditions and price. The land shall be described in the notice only by number, which shall refer to a description on file with such committee.

If anyone, during the ten 10 days, increases the offer made for the land by ten percent or more, the party making the first offer shall be notified and a day fixed when both parties must appear and make offers. The tract of land shall be sold to the party making the highest and best offer.

Conveyances of the land shall be made without warranties of any sort, and deeds shall be executed by the county mayor or other chief fiscal officer of the county. The deed shall be prepared by the back-tax attorney as a part of the duties for which the attorney is compensated by T.C.A. § 67-5-2410, and no additional compensation shall be allowed.

The county may, upon a majority vote of its legislative body determining it in the best interests of the county to use the property for a public purpose, decide to retain ownership and possession of such property.

T.C.A. § 67-5-2507(b). NOTE: subsection (b) does not apply in Davidson county.

For provisions dealing with a political subdivision purchasing property at a tax sale, see T.C.A. § 67-5-2508. See T.C.A. § 67-5-2508(d) for the procedure for delinquent tax sales when delinquent taxes are owed to both a county and a municipality.

If the land cannot be sold at the end of the statutory redemption period, property held by a county is exempt from taxation, regardless of use, as long as the property is held for the purpose of realizing the full amount of taxes, penalties, costs, and interest. T.C.A. § 67-5-2509.

See [Sample Resolution to Establish a Committee for Resale of Land Bought at Delinquent Tax Sales](#). See [Bidding Procedures for Sale of Property Acquired at Delinquent Tax Sales](#).

#### **Rescinding the Prior Delinquent Tax Sale**

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 obligations or environmental risks associated with the parcel.

If the county mayor determines that the financial obligations or environmental risks exceed the value of the parcel, the county legislative body may adopt a resolution, by a two-thirds 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.

Relief shall be sought by motion pursuant to Rule 60 of the Tennessee Rules of Civil Procedure filed within one hundred twenty 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. In the event the prior order is rescinded, title to the parcel shall be deemed to have remained in that state which existed as of the date of entry of the prior order confirming the sale. The court shall have broad discretion to ensure that rescinding its prior order does not result for any period of time in the creation of a parcel for which no person or entity has 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 that may be accepted at the sale.

In the event no person presents 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 or such other relief as the court may order, including the conveyance to a nongovernmental entity claiming contractual rights to dues or assessments pursuant to T.C.A. § 67-5-2516.

T.C.A. § 67-5-2507(c) shall be applicable to the financial obligations or environmental risks of an individual parcel only and shall not be applicable to the aggregated financial obligations or environmental risks of all or multiple parcels bid in to the county pursuant to T.C.A. § 67-5-2501.

#### **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 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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