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Setting Aside a Tax Sale

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-1602

An order confirming the sale of a parcel shall confer the right to possession of the parcel to the purchaser effective upon entry of the order. On such date, the risk of loss shall transfer from the original owner to the purchaser. In the event of a loss occurring after the sale and before the order confirming the sale is entered, the court shall, on motion of the purchaser filed before the order confirming the sale becomes final, determine whether any portion of the purchaser's bid should be refunded to the purchaser. T.C.A. § 67-5-2503(a).

A writ of possession shall, upon application of the purchaser, in a proper case, be ordered by the court in which the tax sale has been made. A purchaser not making an advance demand for rents or profits shall have no rights to rents or profits from a taxpayer who has remained in possession during the redemption period. T.C.A. § 67-5-2503(b).

Any person who buys real estate sold for delinquent taxes that were a lien thereon, and who fails to get a good title or to recover possession of the realty, is subrogated to all liens that secured the taxes, and all interest, costs, penalties and fees; and the person has the right to enforce the same in chancery for the reimbursement of the purchase money paid by the person and interest thereon. T.C.A. § 67-5-2504(a)(1).

A tax deed of conveyance or an order confirming the sale is an assurance of perfect title to the purchaser of such land, and no such conveyance will be invalidated in any court, except by proof that the land was not liable to sale for taxes, or that the taxes for which the land was sold have been paid before the sale or that there was substantial noncompliance with mandatory statutory provisions relating to the proceedings in which the parcel was sold; and if any part of the taxes for which the land was sold is illegal or not chargeable against it, but a part is chargeable, that shall not affect the sale, nor invalidate the conveyance thereunder, unless it appears that before the sale the amount legally chargeable against the land was paid or tendered to the county trustee, and no other objection either in form or substance to the sale or the title thereunder shall avail in any controversy involving them. An action seeking to invalidate any tax title to a parcel shall allege specific facts establishing the grounds set out herein and proof of compliance with T.C.A. § 67-5-2504(c) prior to the filing of the complaint. T.C.A. § 67-5-2504(b).

No suit may be commenced in any court of the state to invalidate or declare void any tax title to land until the party suing has paid or tendered to the clerk of the court where the suit is brought the amount of the bid and all taxes subsequently accrued, with interest and charges. T.C.A. § 67-5-2504(c).

A suit to invalidate any tax title to land must be commenced within one year from the date the cause of action accrued, which is the date of the entry of the order confirming the tax sale. The statute of limitations to invalidate the sale of any tax title is one year, except that it may be extended to one year after the plaintiff discovered or with the exercise of reasonable due diligence should have discovered the existence of such cause of action. In no event may any action to invalidate any tax sale title be brought more than three years after the entry of the order confirming the tax sale. T.C.A. § 67-5-2504(d)(1)-(3).

After entry of an order confirming the sale of a parcel, the purchaser may file suit to quiet title, notwithstanding the deadline for tax sale challenges, or the redemption period. Any order quieting title to a tax sale parcel entered before the expiration of the redemption period shall specify that the purchaser's title to the parcel remains subject to any such remaining redemption period. T.C.A. § 67-5-2504(d)(4).

Any person successfully challenging the validity of a tax sale of the person's interest in a parcel shall also be responsible to the person purchasing the property at the tax sale and the purchaser's successors in interest, for any increase in the value of the parcel, including any improvements thereto, from the date of the entry of the order confirming the sale until the entry of a court order declaring the tax sale invalid as to the challenger. In the alternative, the challenger shall be responsible to the person purchasing the property at the tax sale and the purchaser's successors in interest, for all amounts expended by the purchaser or the purchaser's successors, if such amount is in excess of the increased value of the parcel. The purchaser and successors shall have a lien upon the parcel to secure the payment of the amount determined by the court to be due. T.C.A. § 67-5-2504(f).

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