

DRAFT PROPOSALS FOR 2024 TAPTP BIG BILL

PAGE	PROPOSAL	SUBJECT	AMENDED OR REFERENCED STATUTES	
3	01	Tax Proceedings Filed Pursuant To TCA 67-5	67-5-2506(a)(1) Am	(p. 51)
4	02	Personal Property & Filing Deadline	67-5-Part 19 Am 67-5-905 Am 67-5-904 Ref 67-5-2405(a) Am 67-5-2401 Ref	(p. 40) (p. 43)
6	03	Define Tax Proceeding.	67-5-2502(c)(1)(D) Am	(p. 49)
7	04	Inquiry Notice	67-5-2415 Am	(p. 45)
8	05	Proof Of Service By Mail	67-5-2502(a) Am	(p. 48)
9	06	Overtum Portion Of Tennessee Marble Opinion	67-5-2504(b) Am	(p. 50-51)
10	07	Land Bank Legislation	13-6-101 Am 13-6-102 (15) Am 13-6-106(c) Am 13-6-106(c)(1) Am 13-6-106(c) Add (4) Am 13-6-106(j) Add (7) Am 13-30-101 Add (b) Am 13-30-109 Add (13) Am 13-30-110 Am 13-30-116 Am	(p. 33) (p. 33-34) (p. 35) (p. 35) (p. 35) (p. 37) (p. 38) (p. 38) (p. 39) (p. 40)
13	08	Resale Procedures Re-Write	67-5-2508 Am 67-5-2501 Ref 67-5-2509 Am 67-5-2510 Am	(pp. 58-59) (p. 59) (p. 61)

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			67-5-2507 Am	(p. 53)
			67-5-2511 Ref	
			67-5-2502 Ref	
			13-30-101 et seq Ref	
			67-5-1801(a) Ref	
			67-5-2516 Ref	
			67-5-2511 Am	(p. 61)
21	09	Forced Sale & Proceeds Priority & Authority to Sell Personal Property	67-5-2501(a) & (b) Am	(p. 45)
23	10	Terminated Corporate Entities	67-5-2101 Am	(p. 41)
24	11	Executions	26-3-104 Am	(p. 40)
			67-5-2502(c)(1)(D) Ref	
			8-8-202 Am	(p. 33)
			67-5-2412 Add Am	(p. 44)
26	12	Discovery	67-5-2502(c)(1)(A) Am	(p. 47-48)
27	13	Refunds	67-5-2103 Am	(p. 41-42)
			67-1-707 Ref	
28	14	Exempt From Title 35, Chapter 5, Admin Procedures, Set Offs	67-5-2103 Am	(p. 41-42)
29	15	Partial Payments	67-5-1809 Am	(p. 40)
30	16	Clarify Collection Agencies Act	67-5-2004 Am	(p. 40-41)
31	17	Revision of Redemption Notificiations	67-5-2701 Am	(p. 65-69)
32	18	Revision of Redemption Interest and Expenses	67-5-2701 Am	(p. 65-69)

Proposal #1
ALL TAX PROCEEDINGS FILED UNDER TITLE 67 CHAPTER 5

SECTION *. Tennessee Code Annotated, Section 67-5-2506(a)(1) is amended by deleting the existing language and substituting the following language: “When any parcel is sold for payment of delinquent taxes it shall be sold pursuant to the provisions of this chapter.” The provisions of this subsection are intended to be procedural and remedial in application and are made applicable retroactively to the extent allowed by law.

Analysis: This provision was made applicable in 2019 to (b)(1) counties. By inadvertence, the bill section making the provision applicable to all other counties was omitted in a prior bill. Another effect of the amendment is to remove any doubt that city parcels are also to be sold pursuant to the provisions of Chapter 5. Also, presently the section refers only to Parts 20, 24 and 25. The amendment will incorporate the other Parts of the Chapter. The amendment also clarifies that personal property may be sold to enforce the tax lien. Because many back tax attorneys believe the amendment to be merely restating existing law, the amended statute is made applicable retroactively.

Proposal #2
PERSONAL PROPERTY & FILING DEADLINE

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Part 9, is amended by adding the following as a new section:

Section 67-5-905. Subject to TCA 67-5-904, each item of tangible personal property required to be listed on the schedule as provided by this part shall be subject to a first lien securing such property taxes, interest and court costs as may be levied upon the total assessment of tangible personal property.

Analysis: The proposed amendment is part of the effort to improve the collection of delinquent personal property taxes by clarifying that the same rule applicable to real property is also applicable to tangible personal property.

SECTION * Tennessee Code Annotated, Title 67, Chapter 5, Section 2405(a) is amended by deleting the said subsection and substituting the following subsection:

(a) The Delinquent Tax Attorney shall not later than the last business day of March following the publishing of a notice pursuant to TCA 67-5-2401, file judicial actions for the collection of delinquent real and personal property taxes due the county and municipality, as well as the interest and costs attached to and a part of such taxes, which taxes, interest and costs are declared a first lien upon the assessed parcels of real and personal property. Such costs shall include all expenses authorized by law or by the Court, including attorney fees. Such judicial actions shall be brought in the names of the taxing entities which have certified a delinquent tax list with the Delinquent Tax Attorney or the court.

Analysis:

Apparently this statute was not modified when the state began requiring local governments to aggressively collect personal property taxes after a series of court cases. This amendment deletes the reference to "land" taxes and thereby includes delinquent taxes owing as to both real and personal property. It also deletes an archaic reference to filing after February 1. The amendment also omits references to penalties which are no longer authorized.

Relevant statutes pertaining to this issue are as follows:

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TCA 67-1-701 provides that property taxes are payable beginning on the first Monday of October each year.

TCA 67-5-2010 provides that property taxes, if not paid in full, become delinquent on March 1 following the tax due date.

TCA 67-5-2401 provides for the tax collector to publish a newspaper notice during the following January that judicial actions will be filed to collect the delinquent taxes.

TCA 67-5-2404(a)(1) The Trustee must deliver delinquent list to DTA between February 1 and April 1.

TCA 67-5-2405(a) presently provides that judicial actions for the collection of the delinquent taxes must be filed by the Delinquent Tax Attorney after February 1 and not later than April 1 following the publishing of the notice provided for in TCA 67-5-2401.

Proposal #3
DEFINE TAX PROCEEDING

SECTION *, Tennessee Code Annotated, Title 67, Chapter 5, Section 2502(c)(1)(D) is amended by deleting the first sentence of the existing subsection and substituting the following :

“Proceeding” or “tax proceeding” means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of the first lien securing such taxes.

Analysis: The proposed amendment would define “tax proceeding” to illustrate the distinction between a judicial proceeding to collect property taxes and other judicial proceedings. Will allow us to offer amendments in the future to bills filed in the legislature which are not intended to apply to tax proceedings. “This Act shall not be applicable to tax proceedings as defined by TCA 67-5-2501(c)(1)(D).”

Proposal #4
INQUIRY NOTICE

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Section 2415 is amended
by adding the following as a new subsection:

(i). Actual notice, as used in this Chapter, shall include inquiry notice which is defined as knowledge of facts and circumstances sufficiently pertinent in character to enable reasonably cautious and prudent persons to investigate and ascertain as to the ultimate facts. Whatever is sufficient to put a person upon inquiry, is notice of all the facts to which that inquiry will lead, when prosecuted with reasonable diligence and good faith.

*Analysis: The amendatory language is intended to place in statute the holding of the Court of Appeals filed August 31, 2016 in the case of **Scott v. Ditto**. See also the subsequent opinion in **Scott v. Ditto** filed December 6, 2018.*

Proposal #5
PROOF OF SERVICE BY MAIL

SECTION *, Tennessee Code Annotated, Title 67, Chapter 5, Section 2502(a) is amended by designating the existing subsection (4) as subsection (4)(A) and adding the following as new subsections:

2502(a) (4)(B) Proof of delivery of summons, notice or other correspondence filed or to be filed in the proceeding, by certified mail, return receipt requested, or by an alternative delivery service with return receipt requested, may also be proved by reference to the tracking records located on the website of the delivery service.

2502(a) (4)(C) The failure of a person accepting such mail to fully complete the receipt with a legible signature, a printed name and delivery date, shall create a presumption that the receipt was executed by the addressee or a person with authority or implied authority to accept mail and service of process for the addressee. However, such presumption may be rebutted in the manner set out in subsection (A) above.

Analysis:

New subsection (a)(4)(B) is intended to provide an exception to the holding of the Court of Appeals in the case of 300 Kate Street Partners, LLC v. NIS Trading, Inc. No. M2020-01253-CAO-R30CV Filed 10-28-2021. The exception would be applicable only in judicial actions to collect delinquent property taxes.

New subsection (a)(4)(C) is intended to limit challenges to the service of process based upon the failure of the addressee to properly complete the receipt. The provision would be applicable only in judicial actions to collect delinquent property taxes.

Proposal #6

OVERTURN TENNESSEE MARBLE CASE PRINCIPLE

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Section 2504(b) is amended by adding the following sentence: “This statute does not presuppose a valid vestiture of title in the purchaser at the tax sale.”

Analysis: The proposed amendment is intended to overturn a ruling in the Tax Title Cases 58 S.W. 259 (1900) as summarized in Tennessee Marble v. Young 163 S.W.2d 71 (1942) that the “assurance of perfect title” language in the statute was inapplicable because the statute precluded the determination of valid defenses other than the two listed in the statute. Most of such challenges have been grounded in a lack of notice. The statute was amended in 2014 and 2017 to allow such additional challenges to be made and determined. The ruling has been used to avoid the limitation of action provision in the statute. This reasoning has also been used to justify ignoring the tender requirements in the statute. The effect of the proposed amendment will be to strengthen the time limitations and tender requirements of the statute by recognizing that the statute has been amended to allow the determination of all possible grounds which are otherwise allowed to be determined in a back tax proceeding.

Proposal #7

LAND BANK AMENDMENT

SECTION * Tennessee Code Annotated, Title 13, Chapter 6, Section 101 is amended by designating the existing language as Subsection (a) and enacting the following subsection as Subsection (b):

13-6-101(b) No provision contained in this Chapter shall be applicable to the following:

- (1) liens securing the payment of property taxes, interest thereon and court costs in proceedings to enforce the said lien; or
- (2) tax sales conducted pursuant to Chapter 5 of Title 67 of this code; or
- (3) to any parcels sold or ordered by a court to be sold at such sales; or
- (4) to any requirement or provision set out in Title 67 of this code.

SECTION * Tennessee Code Annotated, Section 13-6-102, Subsection 15 is amended by adding the following new subsection (E) as follows:

(E) Notwithstanding any other language in this Chapter to the contrary, any such receiver's lien shall be secondary to the first lien securing property taxes.

SECTION * Tennessee Code Annotated, Section 13-6-106, Subsection (c) is amended by deleting from subsection (2) thereof the following words "tax sale or other".

SECTION * Tennessee Code Annotated, 13-6-106, Subsection (c)(1) is amended by deleting the third sentence thereof and substituting the following language:

The receiver's lien shall be a first lien on the subject parcel, which is superior to all prior and subsequent liens or other encumbrances associated with the subject parcel with the exception of liens securing the payment of property taxes as set out in Chapter 5 of Title 67 of this Code.

SECTION * Tennessee Code Annotated, 13-6-106, Subsection (c) is amended by adding the following new subsection (4) as follows:

- (4) Notwithstanding any other language in this Chapter to the contrary, any such receiver's lien shall be secondary to the first lien securing property taxes.

SECTION * Tennessee Code Annotated, 13-6-106, Subsection (j) is amended by deleting from subsection (6) thereof the second sentence contained in the said subsection.

SECTION * Tennessee Code Annotated, 13-6-106, Subsection (j) is amended by adding the following new subsection (7) as follows:

- (*) The sale procedures set out in this Chapter shall not be applicable to tax sales conducted pursuant to Chapter 5 of Title 67.

SECTION * Tennessee Code Annotated, 13-30-101 is amended by designating the existing language as Subsection (a) and enacting the following subsection as Subsection (b):

13-30-101(b). No provision contained in this Chapter shall be applicable to the following:

- (1) liens securing the payment of property taxes, interest thereon and court costs in proceedings to enforce the said lien; or
- (2) tax sales conducted pursuant to Chapter 5 of Title 67 of this code; or
- (3) to any parcels sold or ordered by a court to be sold at such sales; or
- (4) to any requirement or provision set out in Title 67 of this code.

SECTION * Tennessee Code Annotated, 13-30-109 is amended by adding the following new subsection thereto:

- (12) The corporation may bid at a tax sale conducted pursuant to Chapter 5 of Title 67 of this code subject to the same procedures and requirements applicable to other bidders. In addition, the corporation may negotiate and complete purchases and leases of

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parcels purchased at tax sales by counties and cities, subject to the same procedures and requirements applicable to other governmental entities.

SECTION * Tennessee Code Annotated, 13-30-110 is amended by deleting subsections (f) and (g).

SECTION * Tennessee Code Annotated, 13-30-116(b) is amended by deleting the following language “in exchange for the deed of real property to the corporation”

Analysis: These Sections amend two Acts enacted in recent years known generally as The Neighborhood Preservation Act [TCA 13-6-102 et seq] and The Tennessee Local Land Bank Program [TCA 13-30-101 et seq] and collectively referred to herein as the Land Bank Acts. In addition to providing for the governance of the programs, the Acts each contain language jeopardizing the status of the property tax lien in Tennessee. The existing Acts grant a preferred status to the programs when a parcel is to be sold at a tax sale by denying to the assessed owners of such parcels, the right to claim any proceeds of the tax sale in excess of the amount owing due to the delinquent taxes on the parcels. The existing statutory scheme basically provides that the programs may by giving notice, grant the parcels intended to be sold, to the programs without allowing the tax sale to occur. Thus preventing a determination as to whether the assessed owner has any equity in the parcel. The assessed owner who had built equity in his property would not have any mechanism by which the amount of his equity can be determined nor any way to recover the lost equity.

Provisions similar to these in other states have been the subject of cases emanating from the federal 6th Circuit Court of Appeals. See Wayside Church v. Van Buren County 847 F.3d 812 (2017); Freed v. Thomas Cite (2020); Harrison v. Montgomery County, Ohio Cite (2021) and Hall v. Meisner City (2022). The conclusion, as held in the Hall case, is that such a statutory scheme constitutes a violation of the Takings Clause of the Fifth Amendment to the United States Constitution and a violation of English Common Law relating back to the Magna Charta, Section 26 (1215). The Hall opinion summed up its holding by citing the dissent in the Wayside Church case: “In some legal precincts that sort of behavior is called theft.”

The United States Supreme Court on May 25, 2023 decided the case of Tyler v Hennepin County (citations unavailable) (2023) which involves this proposal. The Court ruled against the ability of a taxing entity to seize any portion of the excess proceeds or equity in excess of the taxes and court costs. This proposal is intended to bring the Land Bank Acts into compliance with the ruling.

The proposed amendments are intended to recognize the value of the Land Bank Acts and the worthiness of their goals and seek to remedy the Taking Clause defect and make uniform statewide the method of disposing of parcels on which delinquent property taxes are owed. The amendments grant a special status to the Land Bank entities to allow them to bid at tax sales and recognize them as governmental entities to which cities and counties can transfer parcels purchased by forced sale (See TCA 67-5-2501) by lease, sales at reduced prices, sales on terms and even by donation.

Proposal #8
REWRITE OF RESALE PROCEDURES

SECTION *. Tennessee Code Annotated, Section 67-5-2508, is amended by deleting the section in its entirety and substituting therefore the following:

Tennessee Code Annotated, Section 67-5-2508 General Principles Relating to Forced Sales to Taxing Entities

(a) The priorities of a taxing entity purchasing a parcel at a tax sale pursuant to TCA 67-5-2501 shall be to either return the parcel to the tax rolls or put the parcel to a use benefitting the public within a reasonably prompt period after purchasing the parcel.

(b) If no qualified newspaper is published in the county, then any notice required by this Act may be posted on a website maintained by the taxing entity or the clerk of the court where the tax proceeding is pending. If no website is maintained by the taxing entity or clerk, the notice shall be posted at the courthouse or other public building where such notices are frequently posted. The Court in which the tax proceeding was filed may establish additional advertising requirements.

(c) In the event the bid of a purchaser from the taxing entity of a parcel purchased by the taxing entity at a tax sale which parcel is subject to a redemption period, is greater than the proceeds of a subsequently approved redemption, the purchaser shall bear the loss.

Analysis: This section establishes general rules relating to parcels purchased by a taxing entity pursuant to TCA 67-5-2501.

SECTION *. Tennessee Code Annotated, Section 67-5-2509, is amended by deleting the section in its entirety and reserving the section number for further review

Analysis: This section should be reviewed in connection with the rewrite of the present statutes governing the resale of forced sale parcels. The rewrite modifies procedures now addressed in the existing statute.

SECTION *. Tennessee Code Annotated, Section 67-5-2510, is amended by deleting the section in its entirety and reserving the section number for further review

Analysis: This section should be reviewed in connection with the rewrite of the present statutes governing the resale of forced sale parcels. The rewrite modifies procedures now addressed in the existing statute.

SECTION *. Tennessee Code Annotated, Section 67-5-2507, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) The county mayor shall cause a certified copy of all orders confirming the sale of a parcel to the county pursuant to § 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 § 67-5-2501.

(2) The county legislative body may adopt regulations concerning sales of parcels purchased by the county at a delinquent tax sale. The regulations shall 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:

(A) That parcels may be sold on credit and the terms thereof;

(B) 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;

(C) Other similar issues regarding the procedures of sale; and

(D) Procedures, terms, and conditions applicable to conveyances of a parcel pursuant to subsection (b).

(3)

(A) Unless otherwise required by the regulations adopted by the county legislative body, each parcel shall be offered for sale with no minimum bid or approval by the county legislative body required.

(B) The county mayor may solicit offers for one (1) or more individual parcels or for all parcels on a list prepared pursuant to § 67-5-2511.

(C) Any solicitation of offers shall contain a statement as to how and where offers may be filed, and shall be published in a newspaper of general circulation in the county.

(4) The county shall be immune from liability for all dues, fees, and assessments secured by a lien upon the parcel purchased by the county at a delinquent tax sale if:

(A) Offers are solicited for the parcel;

(B) No minimum amount is established for a sale of the parcel;
and

(C) No offer is received within thirty (30) days of the publication of the solicitation in a newspaper of general circulation in the county.

(5) (A) 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 anyone 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 shall be eligible to offer bids at the auction. The highest bidder at such auction shall be the successful bidder. If no raise offer is timely filed, the original bidder shall be the successful bidder.

(B) The county mayor may approve the sale by internet sale, of parcels purchased by the county at a delinquent tax sale pursuant to § 67-5-2501. The provisions of subsection (5)(A) may be waived by the county mayor as to parcels offered for sale by internet sale. The highest bidder at such internet auction shall be the successful bidder.

(6) The proceeds derived from retentions or conveyances of parcels purchased by the county at a delinquent tax sale pursuant to § 67-5-2501 shall be applied in the following order:

(A) First, proceeds shall 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;

(B) Any proceeds remaining after the application of proceeds provided by subdivision (a)(6)(A) shall 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 Section 2502 of this Chapter;

(C) Any proceeds remaining after the application of proceeds provided by subdivisions (a)(6)(A) and (B) shall 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

(D) Any proceeds remaining after the application of proceeds provided by subdivisions (a)(6)(A)-(C) shall inure to the benefit of the county.

(7) Upon compliance with this section, the parcel shall 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 which may not have been paid pursuant to this section.

(8) Any conveyance or retention of a parcel that occurs before the expiration of the redemption period provided in part 27 of this chapter shall remain subject to the right of redemption. No conveyance or retention of a parcel shall affect the redemption period applicable to the parcel.

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

(A) Otherwise required by the regulations adopted by the county legislative body; or

(B) The county legislative body has determined to retain or convey the parcel pursuant to subsection (b).

(b)

(1) 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 § 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) Any governmental entity, including a corporation created pursuant to the Tennessee Local Land Bank Program as codified at Tennessee Code Annotated, Section 13-30-101 et seq; or

(B) A nonprofit entity; provided, that the parcel is transferred in accordance with subdivision (b)(3).

(2) A document evidencing the determination of the county legislative body to retain ownership of a parcel in accordance with subdivision (b)(1) shall be recorded in the office of the register of deeds.

(3) To be eligible to receive a parcel pursuant to subdivision (b)(1)(B), a nonprofit entity shall comply with the following requirements:

(A) The entity shall be exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a), or an organization described in § 501(c) of the Internal Revenue Code, codified in 26 U.S.C. § 501 (c);

(B) The entity shall agree that the conveyed parcel shall be used by the entity for at least a reasonable period for the purposes for which the entity was chartered; and

(C) The entity shall have been chartered to:

(i) Construct or to restore residential dwellings for the purpose of creating affordable and habitable housing for the disadvantaged and needy citizens of the community;

(ii) Construct or to restore historical properties or buildings in the community;

(iii) Operate or maintain a community garden in the community; or

(iv) Construct, operate, or maintain a park, memorial, or gathering place in the community, available for use by the general public.

(c) Conveyances of parcels shall be made without warranties by the county. Deeds shall be executed by the county mayor. The execution of a deed shall constitute 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 shall not be overturned absent clear and convincing evidence of a substantial and material violation of a statutorily mandated requirement.

(d) In the event 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 shall be made as to all interested persons as of the date of the filing of the motion.

(e) In the event a municipality does not authorize the county to convey its interest in tax parcels pursuant to § 67-5-1801(a), or in the event 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 § 67-5-2511. In such event, the municipality's legislative body shall have the powers and duties of the county legislative body as set out in this section and § 67-5-2511; its chief executive officer shall have the powers and duties of the county mayor as set out in this section and § 67-5-2511, and the municipality shall stand in the place and stead of the county.

(f) (1) As to a particular parcel conveyed to a county pursuant to TCA 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.

2) 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 (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 shall 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.

(3) 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 insure that the provisions of this subsection (f) do 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 which may be accepted at the sale.

(4) As an alternative to ordering a second sale or 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 but not limited to the conveyance to a nongovernmental entity claiming

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contractual rights to dues or assessments pursuant to TCA 67-5-2516. 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.

(5) The provisions in this subsection (f) shall be applicable to the risks of an individual parcel only and shall not be applicable to the aggregated risks of all or multiple parcels bid in to the county pursuant to TCA 67-5-2501.

SECTION *. Tennessee Code Annotated, Section 67-5-2511, is amended by deleting the section and substituting instead the following:

(a)

(1) The county mayor, with the assistance of the assessor of property, shall cause to be prepared and maintained, a listing of all parcels owned by the county acquired pursuant to § 67-5-2501.

(2) The chief executive officer of a municipality shall cause to be prepared and maintained, a listing of all parcels owned by the municipality acquired pursuant to § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county in accordance with subdivision 67-5-2511 (a)(1).

(3) Listings pursuant to this subsection (a) shall be prepared annually by July 1. The listings shall be published in a newspaper of general circulation in the county or posted on a web site with a notice of the posting published in a newspaper of general circulation in the county.

(b) At least annually the county mayor shall determine if any additional parcels have been purchased by the county pursuant to § 67-5-2501. If so, the county mayor shall publish the updated list in the same manner as the original list pursuant to subdivision (a)(3).

(c) Each list or notice published in accordance with this section shall contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.

(d) However, 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 required by this section until a sufficient number of parcels or area 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

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being marketed for more than five (5) years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.

Analysis These sections are a rewrite of the present statutes governing the resale of forced sale parcels pursuant to TCA 67-5-2501. Many provisions of existing law are retained but are restated in a more orderly fashion. The county mayor still has a responsibility to oversee the process. A taxing entity will have the option to retain parcels for its own use or to convey or donate such parcels to charitable groups. County legislative bodies may adopt regulations for the process. Unless required by the local regulations, each parcel will be sold with no minimum bid nor approval of the county legislative body. Such parcels may be resold during the redemption period.

Cities who own such forced sale parcels will be able to follow the same process set out for the county.

*A major problem that has developed in recent years is how to handle forced sale parcels subject to Homeowner Association fees and assessments. The HOAs have contended that counties make an insufficient effort to resell such parcels with the result that the HOAs were denied the ability to collect their fees on the parcels from new owners. The result was a Court of Appeals opinion that after counties acquire such parcels, the county is responsible for paying such fees until they resell the parcels. [*Travis v Coffee County TN Ct App-2010*]. The new section provides that if a county offers for resale such a parcel with no minimum bid required, and if no bid is received within a limited period, the county is exempt from such fees. This should encourage prompt action to resell such parcels. However, if a parcel has no value, it is unfair to require the county's taxpayers to pay for services provided by the HOA within a development to which all taxpayers do not have access. The amendment also provides for a possible negotiated sale to the HOA.*

An annual solicitation for bids on all forced sale parcels owned by the county will be required to be published.

If a defect in the title of a parcel is found, the mayor will have the right to move the court in which it was sold, to take such actions as will remedy the defect.

The proposed amendment also provides that if the taxing entity determines that a forced sale parcel may cause the entity to incur significant financial liabilities, primarily due to environmental conditions, the taxing entity may request the court to rescind the conveyance and authorize a negotiated sale of the parcel.

Proposal #9

FORCED SALES & PROCEEDS PRIORITY

AND AUTHORITY TO SELL PERSONAL PROPERTY

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Section 2501 is amended by deleting subsections (a) and (b) and substituting the following:

- (a)(1) The court shall order a sale of the parcel for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted by internet sale in lieu of public outcry.
- (2) At all sales, the clerk of the court, acting for the tax entity prosecuting the suit, shall bid the debt ascertained to be due for taxes, interest, and other costs and fees incident to the collection thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks or financial liabilities associated with the property are such that it is not in the best interests of the tax entity for a minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.
- (3) The tax sale proceeds shall be distributed according to the following priorities:
- (i) amounts owing the delinquent tax attorneys prosecuting the cause; then
 - (ii) the costs of the proceeding exceeding the attorneys' fees; then
 - (iii) amounts owing the taxing entities which are parties in the cause, then
 - (iv) amounts owing to tax entities filing a claim for current and other delinquent taxes and interest due them as stated in claims filed in response to notices sent them pursuant to TCA 26-5-108 and TCA 67-5-2416 and for which no action has been filed pursuant to this Chapter, divided prorated upon the amount of the base taxes due each, then
 - (v) any other property taxes and expenses owing any taxing entity secured by a tax lien on the parcel.
 - (vi) Any remaining proceeds shall be distributed in accordance with Tennessee Code Annotated 67-5-2702.
 - (vii) In the event there are not sufficient funds to pay all of the amounts stated in subsection (a)(3)(i) to (iii), the tax liens of the taxing entities securing such amounts shall lapse upon expiration of the redemption period, it being the intent of the General

Assembly that a parcel sold at a tax sale shall be conveyed free of any remaining tax liens other than taxes levied for the current year. However, a taxing entity shall retain any personal right of action it may have against prior owners of the parcel.

(viii) In the event the tax sale is subsequently invalidated or declared void, the lapsed tax liens shall be reinstated retroactively.

(4). In the event a taxing entity purchases a parcel pursuant to this section, the taxing entity shall pay to the clerk all amounts owing against the parcel in the tax proceeding within sixty days after the order confirming the sale is entered. However, the legislative body of the taxing entity may, as to the particular parcel or as to all such parcels, establish a different date by which such amounts shall be paid. Such date shall not extend beyond five years after the order confirming the sale is entered or the date such parcel is retained or conveyed pursuant to TCA 67-5-2507, whichever is earlier.

(b) (1) The Court may order the sale of all or a portion of the taxable personal property constituting a parcel secured by a tax lien. Such sale shall be made according to such procedures as may be established by the Court.

(2) Upon a tax proceeding being filed to enforce a tax lien against real or personal property, any requirement mandating the confidentiality of records pertaining to the parcel, shall terminate.

Analysis: This amendment establishes parity between counties and cities in that distributions will be made based upon the pro rata share of the base taxes of each taxing entity rather than the present requirement to pay the county amounts first and the city amounts second. The amendment also provides that tax liens for amounts owing a taxing entity shall lapse if the taxing entity does not file a tax proceeding and consolidate it with a pending tax proceeding filed by another taxing entity for the same years. In such case the non-filing tax entity would still retain the right to obtain a personal judgment against the owner.

This amendment also addresses when a taxing entity must pay for a forced sale parcel. It establishes the general rule that the payment must be made within 60 days after the Order Confirming The Sale is entered. However, a taxing entity can defer payment until it sells the parcel or for five years, whichever occurs first.

Subsection (b) authorizes a court ordered sale of a portion of taxed personal property. There are significant difficulties obtaining a sufficient description of the taxed personal property from the filed schedules. Also, a taxpayer can avoid stating any description of the personal property used in the business by merely stating that the value is less than \$1,000. Thus, the amendment authorizes the enforcement of the tax lien by sale of a portion of the assessed personal property and terminates any confidentiality of records pertaining to the parcel.

Proposal #10

TERMINATED CORPORATE ENTITIES

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Section 2101 is amended by adding the following as a new subsection:

(c) Every person owning an interest in a corporate entity or similar organization, including but not limited to limited liability companies, limited partnerships and other entities for which the owners of the said entity are accorded limited liability for debts of the entity and which is, or is stated in the records of the Office of Secretary of State to be, an inactive, dissolved, revoked or otherwise terminated entity, shall be jointly and severally liable with the entity, each other and such other persons as may be liable, for all unpaid property taxes levied against parcels assessed to such entity, and such interest, attorney fees and other court costs as may accrue on the same.

Analysis: Tennessee Code Annotated Title 48, Chapter 211, Section 101 provides that members of limited liability companies are liable for all state and local taxes in the same manner and extent as partners in a domestic partnership. The proposed amendment will apply this rule to all owners of an interest in a terminated corporate entity.

Proposal #11
EXECUTIONS

SECTION *. Tennessee Code Annotated, Title 26, Chapter 3, Section 104, is amended by adding the following language:

“However, no such bond or security shall be required if the execution is issued in a proceeding to collect delinquent property taxes as defined by TCA 67-5-2502(c)(1)(D).”

Analysis: It is the intent of the proposed amendment to expedite and simplify the collection of delinquent property taxes. The present statute requires the taxing entity to post a bond or other security in order to enforce a judgment rendered in the tax proceeding. The change will allow cities and counties to obtain service of an execution on such judgments without the cumbersome process of securing a bond as to each execution pursuant to a judgment.

SECTION *. Tennessee Code Annotated, Title 8, Chapter 8, Section 202, is amended by adding the following language:

“However, this section shall not be applicable to summons, executions or other orders of a court rendered in a proceeding to collect delinquent property taxes as defined in TCA 67-5-2502(c)(1)(D).

Analysis: The present statute requires the taxing entity to pay fees in advance in order to obtain and enforce a judgment rendered in an out of county proceeding. The change will allow city and counties to obtain service of an execution on judgments in tax proceedings without the cumbersome process of obtaining and forwarding a warrant or check for advanced payment as to each execution pursuant to a judgment. The taxing entity shall remain responsible for collecting the fee from the delinquent tax payer and forwarding the same to the appropriate Sheriff’s Department or county government. It can be a time-consuming process to obtain a purchase order and the issuance of a check as to each execution issued in tax proceedings. It is believed that the proposed amendment will assist local governments collect delinquent taxes owing on personal property.

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, is amended by adding Section 2412 as follows:

SECTION 67-5-2412: (a) In all proceedings defined by TCA 67-5-2502(c)(1)(D), for the collection of delinquent property taxes, an officer serving an execution issued in such proceeding shall conduct a search of the person of the Defendant and such items and areas under the control

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of the Defendant and shall seize such cash, property and other assets belonging to the Defendant, as is necessary to satisfy the execution and such additional fees as may be incurred by the officer. In the event the Defendant objects to the search, he shall reduce his objections to writing and give them to the officer. Thereupon, the Defendant shall be escorted by the officer to appear before a judicial commissioner or other official authorized to issue warrants, to state the Defendant's grounds for such objection. The commissioner shall determine the validity of such grounds and either grant or refuse to allow the search. The commissioner shall retain the written objections of the Defendant and his written decision and deliver both to the Clerk of the court from which the execution issued.

(b) The inapplicability of exemptions set out in Sections 113, 301 and 306 of Chapter 2 of Title 26 of this Code and such other statutes which provide that exemptions are not applicable to sales of property of the Defendant in regard to sales for taxes, shall include executions issued in proceedings defined by TCA 67-5-2502(c)(1)(D).

Analysis: (a) Questions have arisen as to the kind of assets which can be seized upon the service of an execution in a civil case. The proposed amendment will clarify that the officer may seize assets of the Defendant, including cash belonging to the Defendant, to the extent necessary to satisfy the execution. If the Defendant objects to the search, the Defendant may obtain a prompt hearing before a neutral and detached official who shall determine whether the search should be allowed.

The amendment will allow an officer executing an execution in a tax proceeding to be able to require the Defendant to empty his pockets and open items on his premises which might contain funds or personal property to apply against the execution.

“As a general rule, money may be levied upon if found in the possession of the Defendant if it is identifiable as his or her money, and if the officer can levy upon it without a violation of the personal security of the debtor.”

Am Jur 2nd Executions, etc Section 203

(b) *This proposed amendment clarifies that a sale as a result of an execution issued pursuant to a tax proceeding is not subject to exemptions.*

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Proposal #12
DISCOVERY

SECTION *. Tennessee Code Annotated, Section 67-5-2502(c)(1)(A), is amended by adding the following sentence:

“Nor does it require the tax entity or delinquent tax attorney to obtain discovery as authorized by the Tennessee Rules of Civil Procedure, or otherwise.”:

Analysis: The proposed amendment adds to the definition of a diligent effort to give notice of the proceedings. Because the tax amount at issue is relatively low in most cases, the cost of utilizing extensive discovery methods can greatly exceed the amount due and the value of the delinquent parcel. The DTA has to balance how much discovery costs are justified as to each parcel. The existing statute and case law recognizes the “reasonableness” factor in determining the search efforts justified.

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Proposal #13
REFUNDS

SECTION * Tennessee Code Annotated Section 67-5-2103 is amended by adding the following subsection;

(k) Tennessee Code Annotated, Section 67-1-707 shall not be applicable to property taxes.

Analysis; TCA 67-1-707 states that the county clerk can grant refunds of “taxes collected by them”. The amendment places in the code explicate language that the section is not applicable to property taxes which are collected by other county officers.

Proposal #14

TITLE 35, CHAPTER 5 JUDICIAL AND TRUST SALES/ ADMINISTRATIVE REMEDIES / GENERAL ATTRIBUTES

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Section 2103 is amended by adding the following new subsections:

() Tennessee Code Annotated, Title 35, Chapter 5 is not applicable to property tax proceedings, tax liens, or the enforcement of such tax liens.

() No interested person shall file as a defense, a counterclaim, a cross claim nor for any other purpose, any defense or cause of action not directly related to the tax proceeding, nor any claim of a set off.

() The failure of a defendant or interested person in a tax proceeding to have exhausted all administrative remedies shall bar the defendant from contesting any issue in the tax proceeding which could have been decided in such manner.

Analysis: Portions of Title 35, Chapter 5 differ from present requirements set out in Title 67, chapter 5. This amendment clarifies that the stated Title and Chapter addressing Judicial and Trust Sales shall not be applicable to property tax proceedings which will continue to be governed by Title 67, Chapter 5.

The second and third subsections place in the Code general attributes of tax proceedings. For example, see State v. Collier 160 Tenn 403, 23 S.W.2nd 897 TN Sup Ct 1930 and Moore v. Tate 87 Tenn 725, 11 S.W. 935 (TN Sup Ct 1889).

Proposal #15
PARTIAL PAYMENTS

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, Part 18 is amended by adding the following as a new section:

SECTION 67-5-1809.

(a) Upon any county Trustee, municipal tax collector or taxing entity qualifying to accept partial payments of property taxes, funds received as partial payments shall be allocated first to accrued interest and then to taxes.

(b) No partial payments shall be accepted after the delinquent tax list has been certified to the Delinquent Tax Attorney or a Court except pursuant to the said Part 28 of this Chapter or TCA Section 67-5-2003(g)(5).

(c) Upon the effective date of this Act, no county Trustee, municipal tax collector or taxing entity shall be authorized to accept a partial payment of delinquent property taxes or interest thereon, unless the said officers and taxing entities shall have implemented compatible software programs in all offices responsible for the collection of such taxes owing the taxing entity, which accurately calculate interest on the remaining amounts owing throughout the collection process until all amounts have been either collected or waived pursuant to Part 28 of Chapter 25 of Title 67 of this code. This subsection (c) shall not be applicable to partial payments of current property taxes which are not delinquent.

Analysis: The proposed amendment adopts as applicable to property tax collection, the American Rule that partial payments are allocated first to accrued interest prior to being applied to the principal.

The State Attorney General in Opinion Number 98-193 opined that “Partial payments on civil judgments should be credited first to accrued interest, and then to principal.” The proposed amendment adopts this opinion as applicable to partial payments of delinquent property taxes.

It has been discovered that software programs utilized in some Trustee’s, Tax Collector’s and court clerk’s Offices are incorrectly computing interest after a partial payment is accepted on delinquent taxes. The primary effect of the proposed amendment is to prohibit partial payments until an accurate software program is implemented.

Proposal #16

CLARIFY COLLECTION AGENCIES SECTION

SECTION *. Tennessee Code Annotated, Title 5, Chapter 5, Section 2004, Subsection (b)(1) is amended by adding the following as a new subsection:

(H) Subsection (b) and the contract authorized therein, shall not repeal or modify any other provision of this Chapter.

Analysis: Subsection (b) was enacted in 2021 and expires July 1, 2024. The Act was supported by the county Trustees in an effort to improve personal property collections. Confusion has been reported as to whether the Trustee is relieved of any other provision relating to the collection of such taxes. The proposed amendment will clarify that all other provisions of Chapter 5 are applicable in those counties utilizing the provisions of this statute.

Proposal #17

REVISION OF MOTION TO REDEEM FILING NOTIFICATION

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, section 2701 is amended by deleting the present subsection (b)(2)(A) and substituting the following:

TCA 67-5-2701(b)(2)(A): The Movant shall serve a copy of the motion to redeem upon the tax sale purchaser, any grantee of the tax sale purchaser's interest in the parcel and all other interested persons as of the date the motion to redeem is filed, in the manner set forth in Rule 5 of the Tennessee Rules of Civil Procedure for pleadings not asserting new or additional claims for relief.

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, section 2701 is amended by deleting the present subsection (c) and substituting the following:

TCA 67-5-2701(c): Upon the filing of the motion to redeem and the payment of the required amount, the clerk shall within ten days send a notice of the filing of the motion to redeem, to the tax sale purchaser and any grantee of the tax sale purchaser's interest who has filed notice of the purchase and a mailing address, with the clerk. The notice shall be forwarded to the last known address of the addressee. The notice shall state the amount paid at the time of the filing of the motion to redeem and refer the persons to this section.

Analysis: The first section above places the duty upon the movant to notify the purchaser, any grantee of the purchaser's interest and other interested persons, of the filing of the motion to redeem. TRCivP Rule 5 provides that such notice may be forwarded by mail or personal delivery rather than service by summons or constructive service. The section also provides for notice to be sent to a person who has purchased the tax sale purchaser's interest and given notice thereof to the clerk.

The second section relieves the clerk of the duty to mail the motion to anyone other than the tax sale purchaser and any purchaser of his interest who has filed notice of the purchase with the clerk.

Proposal #18

REVISION OF REDEMPTION INTEREST & EXPENSE REIMBURSEMENT

SECTION *. Tennessee Code Annotated, Title 67, Chapter 5, section 2701 is amended by replacing subsection (d) in its entirety and replacing it with the following new subsection (d):

(d) The purchaser may within thirty (30) days after the mailing of the notice of redemption, file a response seeking additional funds to be paid by the proposed redeemer to compensate the purchaser for amounts expended by the purchaser for the purposes set out in subsection (e). The response shall specifically set out the basis for each category of additional funds claimed. The response may also allege that the motion to redeem was not properly or timely filed. If no response is timely filed, the court shall determine whether the redemption has been properly made, and if so, shall cause an order to be entered declaring the parcel redeemed.

SECTION *. Tennessee Code Annotated, Section 67-5-2701, is amended by adding the following sentence at the end of subsection (e)(6):

If the court determines that disposition of a redemption motion has been unreasonably delayed for reasons not attributable to the purchaser or the proposed redeemer, the court may decline or limit an award of additional interest under this subsection.

Analysis:

The first section above removes language making an award of additional interest mandatory in any redemptions, even where the tax purchaser has failed to respond to the motion for redemption and request any form of additional reimbursement for expenses or additional interest.

The second section adds language granting courts leeway to limit or deny outright an award of additional interest in the event of delay in resolving the redemption proceedings.

COMPOSITE STATUTORY IMPACT: ALL PROPOSALS

8-8-202. Advance fees on process from other counties.

No sheriff or constable shall be compelled to execute any subpoena or original summons in civil cases coming from any county other than the one in which such sheriff or constable is an officer, unless the fees allowed such sheriff or constable by law for the service of such process, if demanded, are paid in advance.

However, this section shall not be applicable to summons, executions or other orders of a court rendered in a proceeding to collect delinquent property taxes as defined in TCA 67-5-2502(c)(1)(D).

Proposal #11

13-6-101. Short title.

(a) This chapter shall be known and may be cited as the “Neighborhood Preservation Act.”

(b) No provision contained in this Chapter shall be applicable to the following:

- (1) liens securing the payment of property taxes, interest thereon and court costs in proceedings to enforce the said lien; or
- (2) tax sales conducted pursuant to Chapter 5 of Title 67 of this code; or
- (3) to any parcels sold or ordered by a court to be sold at such sales; or
- (4) to any requirement or provision set out in Title 67 of this code.

Proposal #7

13-6-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

- (1) “Abate” or “abatement” in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect such a rehabilitation of the building as is consistent with maintaining safe and habitable conditions over its remaining useful life;
- (2) “Acceptable petitioner” means:
 - (A) Any nonprofit corporation;
 - (B) The municipal corporation within which such subject parcel is located;
 - (C) The owner or legal occupant of a parcel of real property that is adversely impacted by the condition of the subject parcel; or
 - (D) Any interested person;
- (3) “Building” means any building or structure that is located on the subject parcel;
- (4) “Certified person” means any person determined by the court pursuant to § 13-6-108 to be qualified as a receiver or a qualified buyer;
- (5) “Dwelling unit” means a building or the part of a building that is intended to be used as a home, residence, or sleeping place;
- (6) “Governmental authority” means any court or governmental, administrative, legislative, regulatory, adjudicatory, or arbitrational body, agency, commission, department, board, bureau, tribunal, or instrumentality of the United States or of any state, commonwealth, nation, territory, possession, county, parish, or municipality, whether now or hereafter constituted or existing, having or claiming jurisdiction over the subject parcel;
- (7) “Interested person” means, with respect to a subject parcel, any owner, named trustee, or other person that:
 - (A) Holds, or is the assignee of the holder of, a lien against that subject parcel;

- (B) Is named as a nominee or agent of the holder of an obligation that is secured by a deed or a deed of trust affecting such subject parcel;
 - (C) Holds the benefit of an easement appurtenant to such subject parcel;
 - (D) Holds the benefit of a restrictive real covenant against such subject parcel; or
 - (E) Possesses an interest of record in or to such subject parcel;
- (8) “Municipal corporation” means any incorporated city or any county, including any county having a metropolitan form of government, and the code enforcement department or agency or other unit responsible for enforcing building and property conditions in the territorial jurisdiction of the city or county;
- (9) “Nonprofit corporation” means any nonprofit corporation that has been duly organized and is in good standing under the laws of this state;
- (10) “Owner” means one (1) or more persons, jointly or severally, in whom is vested all or part of the legal title to, or beneficial ownership of, the subject parcel;
- (11) “Person” means any individual, firm, corporation, association, trust, partnership, joint venture, limited liability company, governmental authority, or other entity;
- (12) “Public nuisance” means any building that is:
- (A) A menace to the public health, welfare, or safety;
 - (B) Structurally unsafe, unsanitary, or not provided with adequate safe egress;
 - (C) A fire hazard, dangerous to human life, or no longer fit and habitable;
 - (D) A nuisance, as defined in § 29-3-101; or
 - (E) Otherwise determined by the court or a municipal corporation to be a violation of any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to any subject parcel;
- (13) “Qualified buyer” means any person determined by the court to be a certified person as provided in § 13-6-108;
- (14) “Receiver” means any certified person appointed by the court for the purpose of preserving or improving the subject parcel and all of the powers of a receiver appointed for tax enforcement pursuant to § 67-5-2103 are, as applicable, the powers of a receiver appointed pursuant to this chapter;
- (15) “Receiver’s lien” means a first priority lien in favor of the receiver against the subject parcel that, with regard to the subject parcel, upon approval of the court, secures:
- (A) Any and all direct and indirect expenses and costs incurred by the receiver, including reasonable attorney’s fees and costs;
 - (B) Any and all outstanding municipal fines, penalties, expenditures, and assessments;
 - (C) Any and all amounts attributable to state and local taxes and assessments, including any and all outstanding amounts secured by delinquent property tax liens; and
 - (D) A fee, payable to the receiver, equal to ten percent (10%) of the total of the amounts provided under subdivision (15)(A), but in no event less than two thousand five hundred dollars (\$2,500);
 - (E) **Notwithstanding any other language in this Chapter to the contrary, any such receiver’s lien shall be secondary to the first lien securing property taxes.**
- (16) “Residential property” means a subject parcel that includes one (1) or more dwelling units that is owner-occupied and the owner’s principal place of residence, or that is otherwise intended for single-family residential use;
- (17) “Residential rental property” means a building or structure consisting of one (1) or two (2) dwelling units; and
- (18) “Subject parcel” means a tract or item of real or personal property that becomes subject to the jurisdiction of a court pursuant to this chapter.

13-6-106. Civil action to enforce compliance – Draft order of compliance.

(a) An acceptable petitioner may file a petition for a judgment in rem against a subject parcel, naming the subject parcel as the defendant and seeking an order that the subject parcel is a public nuisance and for the abatement of the public nuisance. A proceeding pursuant to this section shall be a proceeding in rem. If the applicable municipal corporation is not the acceptable petitioner, then the applicable municipal corporation shall be put on notice of the in rem proceeding and provided with a full copy of the petition as filed by the acceptable petitioner. If the acceptable petitioner has not attached a certificate of public nuisance to the petition, the municipal corporation shall complete an inspection of the subject parcel within thirty (30) calendar days after the first setting of the matter in court, and the court shall promptly schedule a hearing on the issue of public nuisance. At the conclusion of the hearing on the issue of public nuisance, the court shall determine whether or not the issuance of a certificate of public nuisance is warranted. The court shall dismiss the action if the subject parcel is found not to be a public nuisance by the court.

(b) The petition filed pursuant to subsection (a) must include a draft order of compliance setting forth the relief requested as described in this section and shall specifically request the appointment of a receiver if an order of compliance pursuant to subsection (e) is entered and if the owner fails to comply with such order.

(c) The filing of a petition for a judgment in rem pursuant to subsection (a) shall:

Proposal #7

(1) Create a receiver's lien that secures an undetermined amount until the court establishes the amount. The precise amount of the receiver's lien will be established by the court at any time upon the request of any owner, interested person, or the receiver. ~~The receiver's lien shall be a first lien on the subject parcel, which is superior to all prior and subsequent liens or other encumbrances associated with the subject parcel.~~ **The receiver's lien shall be a first lien on the subject parcel, which is superior to all prior and subsequent liens or other encumbrances associated with the subject parcel with the exception of liens securing the payment of property taxes as set out in Chapter 5 of Title 67 of this Code.** The acceptable petitioner shall file for record in the register's office of the county an abstract certified by the clerk, within one (1) day of certification by the clerk, containing the names of the parties to the suit, a statement that petition has been filed pursuant to this section, a description of the subject parcel and its ownership, and a brief statement of the nature and amount of the lien sought to be imposed, all in compliance with § 20-3-101, which filing shall act as a lien *lis pendens* against the subject parcel. The outstanding principal amount of the receiver's lien carries interest at a standard statutory rate applicable to judgment liens as provided in § 67-5-2010;

(2) Act as a bar of any transfer of title of the subject parcel or of any interests pertaining to such subject parcel, including, but not limited to, transfers by ~~tax sale or other~~ foreclosure, transfers or creation of lien interests in the subject parcel, or otherwise, from the date of the filing until the petition is dismissed or until specific orders of the court authorizing a transfer of title, if the petition has attached a certificate of public nuisance issued pursuant to subsection (a); and

(3) Authorize the municipal corporation, in its discretion, to access the subject parcel for boarding, securing, and maintaining the subject parcel at any time if it has been determined by the court that the owner has failed to do so. Any costs incurred by the municipal corporation shall be charged to the owner.

Proposal #7

(4) Notwithstanding any other language in this Chapter to the contrary, any such receiver's lien shall be secondary to the first lien securing property taxes.

(d) Notice of a petition for a judgment in rem filed pursuant to subsection (a) shall, at a minimum, be provided to each owner and interested person identified by a thorough title search and examination of the subject parcel, including a search of court records of the county where the subject parcel is located. The petitioner shall file with the court a certification that notice has been provided pursuant to this subsection

(d). Notice shall be provided by:

- (1) Sending a copy of the petition by first-class mail to the last known address of record;
 - (2) Posting a copy of the petition in a conspicuous place on the building;
 - (3) Publication of the petition in a newspaper of general circulation published in the county where the subject parcel is located; and
 - (4) Sending a copy of the petition by first-class mail addressed to “occupant” at the subject parcel.
- (e) If the subject parcel is found to be a public nuisance, the court shall issue an order of compliance requiring the owner of the subject parcel to produce a plan for the abatement of the public nuisance. The acceptable petitioner shall file such order in the register's office of the county where the subject parcel is located. The plan must comply with subsection (h) and must be approved by the court. If the owner has commenced work on the subject parcel prior to, or during the pendency of the action, the owner is required to provide a report of the work that has been completed to date, as well as a plan for the abatement of the public nuisance. Once a plan is approved by the court, the municipal corporation shall provide periodic updates to the court on the owner's progress towards completion of the plan and other relevant information about the subject parcel and surrounding area. Upon a finding by the court that the subject parcel is a public nuisance, the court may award all reasonable attorney's fees and costs to the person filing the petition for a judgment in rem.
- (f) If the owner fails to comply with the court's order of compliance pursuant to subsection (e), the court may allow an interested person the opportunity to undertake the work to abate the public nuisance pursuant to a plan that complies with subsection (h) submitted by such interested person.
- (g) If the actions pursuant to subsections (e) and (f) fail to abate the public nuisance, the court may authorize a receiver to take possession and control of the subject parcel to abate the public nuisance pursuant to a plan submitted by such receiver that complies with subsection (h). A receiver appointed pursuant to this chapter is not personally liable for actions taken pursuant to the receivership except for misfeasance, malfeasance, or nonfeasance in the performance of the functions of the office.
- (h)
 - (1) Prior to ordering any action be taken to abate the public nuisance, the court shall cause a detailed development plan to be submitted for review, which must include, but is not limited to:
 - (A) A detailed budget for abating the public nuisance;
 - (B) A projected timeline for abating the public nuisance;
 - (C) If repair and rehabilitation of the subject parcel are found not to be feasible, the cost of demolition of the subject parcel or of the portions of the subject parcel that constitute the public nuisance; and
 - (D) The terms, conditions, and availability of any financing that is necessary to abate the public nuisance or a show of sufficient assets.
 - (2) If the receiver is submitting the plan, the receiver may petition the court for authority to conduct an auction and sale to a qualified buyer, in accordance with subsection (j), without abatement of the public nuisance upon showing that the terms of the auction minimum bid will include a bond or other security, in an amount fixed by the court, ensuring performance of the remediation within nine (9) months of the date of the auction sale, executed by the qualified buyer in favor of the receiver.
- (i)
 - (1) If the court deems a plan submitted by a receiver to be sufficient and appropriate, the court may empower the receiver to:
 - (A) Take possession and control of the subject parcel;
 - (B) Pay all expenses of operating and conserving the subject parcel, including obtaining property insurance;
 - (C) Pay prereceivership mortgages or installments of such mortgages and other liens; and
 - (D) Implement the plan; provided, that, if the plan requires demolition, the court shall order that the demolition be done properly and in compliance with applicable laws.

(2) The receiver shall file a report with the court every sixty (60) calendar days and, upon completion of the detailed development plan, shall file a final report with the court indicating that the public nuisance has been abated and moving for the establishment of the full amount of the receiver's lien. Upon a finding by the court that the public nuisance has been abated and establishing the amount of the receiver's lien, the owner shall be put on notice that the owner has thirty (30) days from such finding to satisfy the receiver's lien in full. If the owner satisfies the receiver's lien in full during such time, the receivership shall be terminated by order of the court.

(j) If the receiver's lien is not satisfied by the owner pursuant to subdivision (i)(2), the court shall direct the receiver to offer the subject parcel for sale in accordance with the following:

(1) The sales procedure shall follow the procedures provided in §§ 35-5-101 — 35-5-109;

(2) The minimum bid at a receiver's lien sale shall be the full amount of the receiver's lien;

(3) If any local land bank formed pursuant to § 13-30-104 notifies the receiver in writing in advance of the receiver's lien sale that it wishes to enter the minimum bid for cash for the subject parcel, then such minimum bid shall preempt all other bids, and the local land bank shall be the prevailing bidder;

(4) If there is no bidder at the receiver's lien auction for greater than the minimum bid, the subject parcel shall be transferred by receiver's deed to the receiver, and there shall be no requirement of cash payment of the minimum bid by the receiver;

(5) When the successful bid is paid in cash, the amount of the minimum bid is paid to satisfy the receiver's lien, including payment to the appropriate property tax officials, of that portion of the receiver's lien that constituted delinquent property taxes. Any surplus shall be distributed, as approved by the court, to the owner and interested persons in the priority in which their interests encumbered the subject parcel prior to the auction; and

(6) The receiver shall report the prevailing bid at the sale to the court, and upon approval by the court, a receiver's deed shall be issued to the successful bidder and promptly recorded in the office of the register of deeds. ~~The county trustee shall be allowed a credit pursuant to § 67-5-1903(b)(1) for any local taxes and assessments that are not collected as a result of the failure of the receiver's lien sale to receive a cash payment for the minimum bid pursuant to subdivision (j)(2).~~ Title shall be absolute in the purchaser, and the interests of any interested persons prior to the auction shall be terminated as of the date of the sale. The receivership shall be terminated after the sale by order of the court after a hearing on receiver's motion for termination of the receivership.

~~(7) The sale procedures set out in this Chapter shall not be applicable to tax sales conducted pursuant to Chapter 5 of Title 67.~~

(k)

(1) Nothing in this chapter limits the powers granted to a court having jurisdiction pursuant to § 13-6-107.

(2) The monetary and other limitations specified in § 16-15-501(d)(1) upon any court with jurisdiction over an action described in subsection (a) do not operate as limitations upon any of the following:

(A) Expenditures of a mortgagee, lienholder, other interested person, or receiver that has been selected pursuant to subsection (f) or (g) to undertake the work and to furnish the materials necessary to abate a public nuisance;

(B) Any notes issued by a receiver;

(C) Any mortgage granted by a receiver;

(D) Expenditures in connection with the foreclosure of a mortgage granted by a receiver in accordance with subsection (i);

(E) The enforcement of an order of a judge entered pursuant to this chapter; or

(F) The actions that may be taken pursuant to this chapter by a receiver or a mortgagee, lienholder, or other interested person that has been selected pursuant to subsection (f) or

Proposal #7

(g) to undertake the work and to furnish the materials necessary to abate a public nuisance.

(3) A judge in a civil action described in subsection (a), or the judge's successor in office, has continuing jurisdiction to review and order correction of the condition of any subject parcel that was determined to be a public nuisance pursuant to this chapter.

13-30-101. Short title.

(a) This chapter shall be known and may be cited as the "Tennessee Local Land Bank Program."

(b) No provision contained in this Chapter shall be applicable to the following:

Proposal #7

- (1) liens securing the payment of property taxes, interest thereon and court costs in proceedings to enforce the said lien; or
- (2) tax sales conducted pursuant to Chapter 5 of Title 67 of this code; or
- (3) to any parcels sold or ordered by a court to be sold at such sales; or
- (4) to any requirement or provision set out in Title 67 of this code.

13-30-109. Corporate powers.

The corporation shall have the power, as limited by the legislative body of the creating local government or local governments, to:

- (1) Adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (2) Sue and be sued in its own name and plead and be impleaded in all civil actions, including, but not limited to, actions to clear title to the real property held in the land bank;
- (3) Adopt a seal and to alter the same at pleasure;
- (4) Borrow funds as may be necessary, for the operation and work of the corporation with the concurrence of the legislative body of the creating local government or local governments;
- (5) Enter into contracts and other instruments necessary, incidental or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental agreements under the existing Tennessee Code for the joint exercise of powers under this chapter;
- (6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers to acquire, hold and dispose of real property held in the land bank;
- (7) Procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employer's liability, against any act of any member, officer or employee of the corporation in the performance of the duties of such person's office or employment or any other insurable risk, as the board of directors, in its discretion, may deem necessary;
- (8) Accept donations, contributions, revenues, capital grants or gifts from any individual, association, public or private corporation, municipality or county of the state of Tennessee, the state of Tennessee or the United States government, or any agency or instrumentality of the state of Tennessee or the United States, for or in aid of any of the purposes of this chapter and enter into agreements in connection with the donations, contributions, revenues, capital grants or gifts;
- (9) Invest money of the corporation in investments that would be eligible investments for a municipality or county in the state and name and use depositories for its money with a bank or trust company which is a member of the Federal Deposit Insurance Corporation;
- (10) Enter into contracts which do not violate § 29-17-102, for the management of or the sale of real property in the land bank; such power shall include the power to preserve the value or prevent diminution of the value of any such property until disposed of by the corporation, including the following actions:

- (A) Design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property;
 - (B) Fix, charge and collect rents, fees and charges for the use of real property of the land bank and for services provided by the corporation;
 - (C) Grant or acquire a license, easement, lease, as lessor and as lessee, or option with respect to real property in the land bank; and
 - (D) Enter into limited partnerships, limited joint ventures and other limited collaborative relationships with local governments and other public and private entities within the designated boundary for the ownership, management, development, and disposition of real property; and
- (11) Do all other things necessary or convenient to achieve the objectives and purposes of the corporation related to the real property held in the land bank.
- (12) The corporation may bid at a tax sale conducted pursuant to Chapter 5 of Title 67 of this code subject to the same procedures and requirements applicable to other bidders. In addition, the corporation may negotiate and complete purchases and leases of parcels purchased at tax sales by counties and cities, subject to the same procedures and requirements applicable to other governmental entities.

Proposal #7

13-30-110. Acquisition and maintenance of real property and interests in real property.

- (a) The corporation may acquire real property or interests in real property for the land bank by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the corporation considers proper.
- (b) The corporation may acquire real property by purchase contracts, lease purchase agreements, installment sales contracts or land contracts, and may accept transfers from municipalities or counties upon such terms and conditions as agreed to by the corporation and the local government.
- (c) The corporation shall maintain all of its real property and real property held in the land bank in accordance with state law and the laws and ordinances of the jurisdiction in which the real property is located.
- (d) The corporation shall not own or hold real property located outside the jurisdictional boundaries of the local governmental entity or entities that created the corporation; provided, however, that the corporation may be granted authority pursuant to an intergovernmental cooperation agreement with another municipality or county to manage and maintain real property located within the jurisdiction of such other municipality or county.
- (e) Except as provided in § 13-30-120, notwithstanding any other law to the contrary, any municipality or county may convey to the corporation real property and interests in real property on such terms and conditions, and according to such procedures, as determined by the legislative body of the local government conveying the real property to the corporation.

(f)

Proposal #7

- ~~(1) The corporation may provide written notice to the clerk and master in advance of any delinquent property tax sale auction held pursuant to § 67-5-2005(b) that it wishes to enter the minimum bid for cash for any parcel advertised for sale in such auction, and such minimum bid shall preempt all other bids for said parcel, and the local land bank shall be the prevailing bidder.~~
- ~~(2) If there are no other bidders on a parcel under subdivision (f)(1), such minimum bid shall be accepted for no cash, and the local land bank shall be the prevailing bidder and take title to said parcel in the same manner as a municipality bidding the minimum bid.~~
- ~~(g) Commencing upon the date of transfer of any real property from a land bank to a taxable person or entity, if approved by local government, the land bank shall be entitled to receive payments from the local government equal to fifty percent (50%) of real property taxes collected by the local government for a period of five (5) years.~~

13-30-116. Exemption from state taxes — Payment of unpaid taxes — Proceeds of sales — Revenue.

- (a) In accordance with §§ 67-5-2505 [repealed], 67-5-2507, 67-5-2508, 67-5-2509, and [former] 67-5-2514, the corporation is exempt from any state taxation.
- (b) Additionally, the corporation has the power to pay any unpaid taxes due and owing by the owner of record of the real property, or make any government mandated improvements to the property, ~~in exchange for the deed of real property to the corporation.~~
- (c) All proceeds from the sale of real property held in the land bank shall be returned to the corporation.
- (d) All corporate revenue shall be held by the board of directors, and proceeds shall only go to furthering the aims of the acquisition and/or resale of real property by the corporation for the land bank.

Proposal #7

26-3-104. Indemnity bond of plaintiff.

No sheriff or other officer shall be required to levy an execution on any property the title of which is disputed, or to sell the same after levy, unless the plaintiff will first give bond and security to such officer, to indemnify the sheriff or other officer against all damages and costs in consequence of the levy or sale. ~~However, no such bond or security shall be required if the execution is issued in a proceeding to collect delinquent property taxes as defined by TCA 67-5-2502(c)(1)(D).~~

Proposal #11

67-5-905. [INSERT TITLE]

~~Subject to TCA 67-5-904, each item of tangible personal property required to be listed on the schedule as provided by this part shall be subject to a first lien securing such property taxes, interest and court costs as may be levied upon the total assessment of tangible personal property.~~

Proposal #2

67-5-1809. [INSERT TITLE]

Proposal #15

- (a) ~~Upon any county Trustee, municipal tax collector or taxing entity qualifying to accept partial payments of property taxes, funds received as partial payments shall be allocated first to accrued interest and then to taxes.~~
- (b) ~~No partial payments shall be accepted after the delinquent tax list has been certified to the Delinquent Tax Attorney or a Court except pursuant to the said Part 28 of this Chapter or TCA Section 67-5-2003(g)(5).~~
- (c) ~~Upon the effective date of this Act, no county Trustee, municipal tax collector or taxing entity shall be authorized to accept a partial payment of delinquent property taxes or interest thereon, unless the said officers and taxing entities shall have implemented compatible software programs in all offices responsible for the collection of such taxes owing the taxing entity, which accurately calculate interest on the remaining amounts owing throughout the collection process until all amounts have been either collected or waived pursuant to Part 28 of Chapter 25 of Title 67 of this code. This subsection (c) shall not be applicable to partial payments of current property taxes which are not delinquent.~~

67-5-2004. Collection by garnishment – Retention of collection agent.

(a) The officers to whom the delinquent lists are so delivered may proceed against the delinquent taxpayers by garnishment proceedings, returnable before any general sessions court in the district where the delinquent resides, or to any court, which garnishment shall run in the name of the state for its own behalf and for the use and benefit of the county.

(b) [Subsection (b) repealed effective July 1, 2024. See (b)(2).]

(1)

(A) The county trustee may proceed against a taxpayer who is delinquent in the payment of tangible personal property taxes by retaining an agent to collect such delinquent tangible personal property taxes, plus interest authorized by law, reasonable costs, and legal fees, provided that the collection activities are in compliance with this subsection (b).

(B) If a collection agent is retained, the county trustee shall utilize the bidding procedures applicable to the county to select and retain the agent and shall notify the county legislative body of such action. The agent's collection fee shall not exceed thirty percent (30%) of tangible personal property taxes due, and the fee must be added to the total amount of delinquent tangible personal property taxes owed, plus interest authorized by law, reasonable costs, and legal fees.

(C) A contract or other arrangement entered into to retain a collection agent under this subsection (b) shall not provide that the compensation paid to the agent is conditioned on increasing tangible personal property tax collections in the county involved. A contract found to contain such language is void and unenforceable.

(D) An agent shall not communicate with the delinquent taxpayer or proceed upon the delinquent taxpayer's property unless authorization to take such action is provided in the contract. The agent shall not institute or undertake a collection or related activity in violation of the Tennessee Collection Service Act, compiled in title 62, chapter 20.

(E) An agent retained pursuant to this subsection (b) must be licensed and in good standing with the Tennessee collection service board.

(F) All foreclosures, seizures, litigation, or other judicial or non-judicial proceedings to enforce a tax lien or any similar rights to collect delinquent tangible personal property taxes, plus interest authorized by law, reasonable costs, and legal fees, must be in the name of the taxing jurisdiction as the plaintiff or claimant.

(G) An agent who also performs audit procedures shall not be retained to collect delinquent tangible personal property taxes under this section.

Proposal #16

(H) Subsection (b) and the contract authorized therein, shall not repeal or modify any other provision of this Chapter.

(2) This subsection (b) is repealed on July 1, 2024.

67-5-2101. Taxes on which lien based.

(a) The taxes assessed by the state of Tennessee, a county, or municipality, taxing district, or other local governmental entity, upon any property of whatever kind, and all penalties, interest, and costs accruing thereon, shall become and remain a first lien upon such property from January 1 of the year for which such taxes are assessed.

(b) In addition to the lien on property, property taxes shall become and remain a personal debt of the property owner or property owners as of January 1 of the tax year, and, when delinquent, may be collected by suit as any other personal debt. In any lawsuit for collection of property taxes, the same penalties and attorney fees shall apply as set forth in § 67-5-2410 for suits to enforce liens for property

Proposal #10

taxes. The claim for the debt and the claim for enforcement of the lien may be joined in the same complaint.

(c) Every person owning an interest in a corporate entity or similar organization, including but not limited to limited liability companies, limited partnerships and other entities for which the owners of the said entity are accorded limited liability for debts of the entity and which is, or is stated in the records of the Office of Secretary of State to be, an inactive, dissolved, revoked or otherwise terminated entity, shall be jointly and severally liable with the entity, each other and such other persons as may be liable, for all unpaid property taxes levied against parcels assessed to such entity, and such interest, attorney fees and other court costs as may accrue on the same.

67-5-2103. Nature of proceedings.

(a) The whole proceeding for the enforcement of property tax liens, from the assessment to sale for delinquency, shall be a proceeding in rem, and shall not be invalid on account of such land having been listed or assessed for taxation to anyone as owner or owners or to any person or persons not the owner or owners or to unknown owner or owners.

(b) All interested persons shall be deemed to have constructive notice of the proceedings by virtue of the seizure of the parcel occurring upon the filing of a complaint for the purpose of enforcement of the first lien. However, interested persons who do not have an obligation to pay the taxes on the parcel, such as lienholders, need not be joined as parties nor served with process so long as a diligent effort to give actual notice of the proceedings, as defined in § 67-5-2502(c)(1), is made to such persons.

(c) The filing of a complaint for the purpose of enforcement of the first lien provided for in § 67-5-2101, shall create a lien *lis pendens* as to each parcel which is included in the proceeding, during the pendency of the proceeding, affecting all subsequent owners, without the recording of any copy or abstract thereof in the office of the register of deeds.

(d) The general assembly finds and determines that:

(1) The collection of property taxes is an essential and necessary function of counties and municipal corporations in the state;

(2) This chapter provides for a specific and comprehensive scheme for the collection of delinquent property taxes;

(3) This chapter is intended to be procedural and remedial in application and, unless a contrary intent is expressed in an act amending this chapter, such amendments are also intended to be procedural and remedial in application;

(4) The economy of the state has evolved from one primarily based upon the agrarian use of real property to an economy based more upon the improvement of real property by the construction of residential, commercial, and industrial structures thereon. Such improvements require the investments of significant funds and resources;

(5) A purpose of this chapter is to promote and encourage the development of improvements upon real estate that have been conveyed pursuant to this chapter through the enforcement of tax liens;

(6) The certainty and finality of the titles to real estate that have been conveyed pursuant to this chapter through the enforcement of tax liens is a necessary prerequisite to the development of improvements thereon; and

(7) Statutes that are not consistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter should not be applicable to tax proceedings, tax liens, or the enforcement of such tax liens.

(e) This chapter shall be construed liberally in favor of the certainty and finality of property titles transferred pursuant to this chapter.

(f) Title 21, chapter 1, part 4, is not applicable to tax proceedings, tax liens, or the enforcement of such tax liens.

(g) Sections 29-6-161 — 29-6-165 are not applicable to tax proceedings, tax liens, or the enforcement of such tax liens.

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(h) Chapter 1, part 18 of this title is not applicable to property tax proceedings, property tax liens, or the enforcement of such property tax liens.

(i) Other statutes that are not consistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter shall not be applicable to tax proceedings, tax liens, or the enforcement of such tax liens.

(j) All interested persons, as defined in this chapter, are charged with the knowledge that the parcel is subject to property taxes, which are required to be paid to the trustee or collector on an annual basis, and which taxes become a first lien on the parcel from January 1 of each year. All interested persons have an affirmative duty to inquire as to the amounts of such taxes and their payment status. Under no circumstances shall a claim that the interested party did not receive a tax bill or any prelawsuit notice constitute a valid defense to the enforcement of the lien, the personal debt for the taxes, or the amount of taxes owed, including penalty, interest, cost, and fees.

(k) Tennessee Code Annotated, Section 67-1-707 shall not be applicable to property taxes.

() Tennessee Code Annotated, Title 35, Chapter 5 is not applicable to property tax proceedings, tax liens, or the enforcement of such tax liens.

() No interested person shall file as a defense, a counterclaim, a cross claim nor for any other purpose, any defense or cause of action not directly related to the tax proceeding, nor any claim of a set off.

() The failure of a defendant or interested person in a tax proceeding to have exhausted all administrative remedies shall bar the defendant from contesting any issue in the tax proceeding which could have been decided in such manner.

Proposal #13

Proposal #14

67-5-2405. Filing and prosecution of suits.

(a) ~~The attorney shall after February 1, and not later than April 1, file suits in the circuit or chancery court of the county for the collection of delinquent land taxes due the state, county and municipality, as well as the interest, penalties, and costs attached to and a part of such taxes, which taxes, interest, penalties, and costs are declared a lien upon the land; and, for the enforcement of this lien, suits shall be brought in the name of the county, in its own behalf and for the use and benefit of the state, municipality or other tax entity that has certified a delinquent tax list, or in the name of any such tax entity that has certified a delinquent tax list, in its own behalf and for its own use and benefit.~~ The Delinquent Tax Attorney shall, not later than the last business day of March following the publishing of a notice pursuant to TCA 67-5-2401, file judicial actions for the collection of delinquent real and personal property taxes due the county and municipality, as well as the interest and costs attached to and a part of such taxes, which taxes, interest and costs are declared a first lien upon the assessed parcels of real and personal property. Such costs shall include all expenses authorized by law or by the Court, including attorney fees. Such judicial actions shall be brought in the names of the taxing entities which have certified a delinquent tax list with the Delinquent Tax Attorney or the court.

(b) (1) The complaint shall be in substance and form as other complaints for the enforcement of liens and may be filed against and contain the names of all the delinquent taxpayers in the county, and the fact that the complaint contains the names of more than one (1) defendant shall not be considered by the court multifarious, or a misjoinder of parties.

(2) Additional defendants and delinquent taxes may be added to the suit as a matter of right upon the filing of a notice on behalf of the complainant to add additional defendants and without the

Proposal #2

necessity of amending the complaint. Upon the filing of such notice, the additional defendants shall be served with process pursuant to the Rules of Civil Procedure and § 67-5-2415.

- (c) Suits for the collection of delinquent taxes are to be prosecuted to a conclusion as soon as practicable, and for this purpose proceedings in respect thereto are to be accorded priority by the court.
- (d) At any time after suit has been filed pursuant to subsection (a), whether delinquent tax defendants have or have not been served with a copy of such suit, the court may amend this suit by adding delinquent taxes that became delinquent more recently than the taxes being enforced pursuant to subsection (a).
- (e)

- (1) If a plaintiff has reasonable cause to believe that an interested person owning an interest in a parcel is a minor or a person who is incompetent and that the person has no spouse, parent, child, guardian or best friend suitable to represent the person's interest, nor any appointed representative, the plaintiff shall make that fact known to the court. The court shall determine whether the interests of justice require the appointment of a guardian ad litem or attorney ad litem to represent the interests of the person. Otherwise, notice to such spouse, parent, child, guardian, best friend, or appointed representative, shall constitute notice to the interested person.

- (2) It is not necessary for unborn, unfound or unknown owners to have a guardian ad litem, attorney ad litem, or other representative, appointed to represent their interests in the proceedings except as provided in subdivision (e)(1).

Proposal #11

67-5-2412. [~~Reserved.~~] [Insert Title]

(a) In all proceedings defined by TCA 67-5-2502(c)(1)(D), for the collection of delinquent property taxes, an officer serving an execution issued in such proceeding shall conduct a search of the person of the Defendant and such items and areas under the control of the Defendant and shall seize such cash, property and other assets belonging to the Defendant, as is necessary to satisfy the execution and such additional fees as may be incurred by the officer. In the event the Defendant objects to the search, he shall reduce his objections to writing and give them to the officer. Thereupon, the Defendant shall be escorted by the officer to appear before a judicial commissioner or other official authorized to issue warrants, to state the Defendant's grounds for such objection. The commissioner shall determine the validity of such grounds and either grant or refuse to allow the search. The commissioner shall retain the written objections of the Defendant and his written decision and deliver both to the Clerk of the court from which the execution issued.

(b) The inapplicability of exemptions set out in Sections 113, 301 and 306 of Chapter 2 of Title 26 of this Code and such other statutes which provide that exemptions are not applicable to sales of property of the Defendant in regard to sales for taxes, shall include executions issued in proceedings defined by TCA 67-5-2502(c)(1)(D).

67-5-2415. Notice to taxpayer of suit.

(a) The court shall have jurisdiction to award personal judgment against an owner upon the claim for the debt upon determining that proper process has been served upon such owner. The court shall have jurisdiction to award a judgment enforcing the lien by a sale of the parcel upon determining that any the following actions have occurred as to each owner:

- (1) That proper process has been served upon an owner;
- (2) That the owner has actual notice of the proceedings by mail or otherwise; or
- (3) That constructive notice by publication pursuant to §§ 21-1-203 and 21-1-204, except as modified in this section, utilizing a description of the parcel in accord with § 67-5-2502(a)(1), has been given to unborn, unfound and unknown owners and that the plaintiff has made or will

make a diligent effort prior to the confirmation of the sale of the parcel to give actual notice of the proceedings to persons owning an interest in the parcel, as identified by the searches described in § 67-5-2502(c)(2).

- (b) Notice shall also be sufficient if received by an owner in time to afford the owner a reasonable period to prevent the loss of owner's interest in the parcel. Such loss shall be deemed to occur upon the expiration or termination of the redemption period established by part 27 of this chapter.
- (c) Notice of the pendency of the proceedings as to a parcel constitutes notice of the pending sale of the parcel and vice versa.
- (d) If process is to be served upon a defendant, the defendant does not have to receive a copy of the complaint or exhibits. The plaintiff may in lieu thereof furnish to the defendant a notice identifying the proceedings sufficiently for the defendant to determine the parcel which is subject to the delinquent taxes for which the defendant is being sued.
- (e) A defendant may file a pleading alleging specific facts establishing any of the following defenses:
 - (1) That the parcel is not subject to sale for the taxes;
 - (2) That the taxes have been paid; or
 - (3) That there has been substantial noncompliance with mandatory statutory provisions relating to the proceedings.
- (f) Process may be served either by an authorized process server or forwarded by certified or registered mail, return receipt requested, or by any alternative delivery service as authorized by Section 7502 of the Internal Revenue Code (26 U.S.C. § 7502).
- (g) The return of the receipt signed by the defendant, spouse, or other person deemed appropriate to receive summons or notice as provided for in the Rules of Civil Procedure, or its return marked “refused”, “unclaimed”, or other similar notation, as evidenced by appropriate notation of such fact by the postal authorities, and filed as a part of the record by the clerk shall be evidence of actual notice and shall be grounds for a default judgment. Process and notices delivered by registered or certified mail or by an alternative delivery service, with a return receipt, to an interested party's registered agent at the agent's address or to the address of the interested party, each as shown on the corporate records of a state secretary of state or other officer responsible for maintaining such records, shall be sufficient to bind the interested party as to notices and service of process.
- (h) Prior to confirming the sale of a parcel, the court shall determine that a diligent effort has been made to give actual notice of the proceedings to all interested persons, as identified by the searches described in § 67-5-2502(c)(2).
- (i) Actual notice, as used in this Chapter, shall include inquiry notice which is defined as knowledge of facts and circumstances sufficiently pertinent in character to enable reasonably cautious and prudent persons to investigate and ascertain as to the ultimate facts. Whatever is sufficient to put a person upon inquiry, is notice of all the facts to which that inquiry will lead, when prosecuted with reasonable diligence and good faith.

Proposal
#4

67-5-2501. Sale of land generally.

(a)

Proposal #9

- ~~(1) The court shall order a sale of the land for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.~~
- ~~(2) At all sales, the clerk of the court, acting for a tax entity or entities prosecuting the suit, shall bid the debt ascertained to be due for taxes, interest, penalties, and the costs and fees incident to the collection thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks or financial liabilities associated with the property are such that it is not in the best interests of the tax entity for a~~

~~minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.~~

~~(3) Up to ten percent (10%) of the sale proceeds shall be applied first to payment of any unpaid balance of compensation due the prosecuting attorney. Second, the proceeds of the sale shall be applied to the costs of the suits. Third, the remainder shall be applied to the state first, county second, and municipality third, the amount due each to be ascertained by a decree of the court.~~

~~(4) This subsection (a) does not apply to counties with a metropolitan form of government or to counties having the following populations according to the 1970 federal census or any subsequent federal census:~~

~~not less than nor more than~~

- ~~—3,765,200~~
- ~~—6,600,700~~
- ~~—8,100,200~~
- ~~—12,300,350~~
- ~~—12,400,550~~
- ~~—14,700,800~~
- ~~—36,900,100~~
- ~~—56,200,300~~

~~(b)~~

~~(1) The court shall order a sale of the land for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted electronically in lieu of public outcry.~~

~~(2) At all sales, the clerk of the court, acting for a tax entity or entities prosecuting the suit, shall bid the debt ascertained to be due for taxes, interest, penalties, and the costs and fees incident to the collection thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks are such that it is not in the best interests of the tax entity for a minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.~~

~~(3) The proceeds from such sale shall be applied first to the payment of the ten percent (10%) penalty allowed as compensation for prosecuting the suits, second to the costs, and third the remainder shall be applied to the state first, county second, and the municipality third, the amount due each to be ascertained by a decree of the court.~~

~~(4) This subsection (b) applies only to counties with a metropolitan form of government and to counties having the following populations according to the 1970 federal census or any subsequent federal census:~~

~~not less than nor more than~~

- ~~—3,765,200~~
- ~~—6,600,700~~
- ~~—8,100,200~~
- ~~—12,300,350~~
- ~~—12,400,550~~
- ~~—14,700,800~~
- ~~—36,900,100~~
- ~~—56,200,300~~

~~(a)~~

~~(1) The court shall order a sale of the parcel for cash, certified funds, cashier's check, money order, or automated clearing house transfer, as applicable. All sales are subject to the equity of redemption. Such sale may be conducted by internet sale in lieu of public outcry.~~

~~(2) At all sales, the clerk of the court, acting for the tax entity prosecuting the suit, shall bid the debt ascertained to be due for taxes, interest, and other costs and fees incident to the collection~~

thereof, where no other bidder offers the same or larger bid; provided, that, when the legislative body of a tax entity determines that the environmental risks or financial liabilities associated with the property are such that it is not in the best interests of the tax entity for a minimum bid to be offered at the tax sale, the clerk shall not offer a bid on the property at the tax sale.

(3) The tax sale proceeds shall be distributed according to the following priorities:

- (i) amounts owing the delinquent tax attorneys prosecuting the cause; then
- (ii) the costs of the proceeding exceeding the attorneys' fees; then
- (iii) amounts owing the taxing entities which are parties in the cause, then
- (iv) amounts owing to tax entities filing a claim for current and other delinquent taxes and interest due them as stated in claims filed in response to notices sent them pursuant to TCA 26-5-108 and TCA 67-5-2416 and for which no action has been filed pursuant to this Chapter, divided prorated upon the amount of the base taxes due each, then
- (v) any other property taxes and expenses owing any taxing entity secured by a tax lien on the parcel.
- (vi) Any remaining proceeds shall be distributed in accordance with Tennessee Code Annotated 67-5-2702.
- (vii) In the event there are not sufficient funds to pay all of the amounts stated in subsection (a)(3)(i) to (iii), the tax liens of the taxing entities securing such amounts shall lapse upon expiration of the redemption period, it being the intent of the General Assembly that a parcel sold at a tax sale shall be conveyed free of any remaining tax liens other than taxes levied for the current year. However, a taxing entity shall retain any personal right of action it may have against prior owners of the parcel.
- (viii) In the event the tax sale is subsequently invalidated or declared void, the lapsed tax liens shall be reinstated retroactively.

(4). In the event a taxing entity purchases a parcel pursuant to this section, the taxing entity shall pay to the clerk all amounts owing against the parcel in the tax proceeding within sixty days after the order confirming the sale is entered. However, the legislative body of the taxing entity may, as to the particular parcel or as to all such parcels, establish a different date by which such amounts shall be paid. Such date shall not extend beyond five years after the order confirming the sale is entered or the date such parcel is retained or conveyed pursuant to TCA 67-5-2507, whichever is earlier.

(b)

(1) The Court may order the sale of all or a portion of the taxable personal property constituting a parcel secured by a tax lien. Such sale shall be made according to such procedures as may be established by the Court.

(2) Upon a tax proceeding being filed to enforce a tax lien against real or personal property, any requirement mandating the confidentiality of records pertaining to the parcel, shall terminate.

(c)

(1) Within five (5) business days after the conclusion of the sale, and prior to confirmation of the sale by the court, the clerk of the court shall immediately file in the case a report of sale or other notice reflecting the results of the tax sale.

(2) The clerk of the court shall, concurrently with the filing, file the report or notice with the office of the register of deeds of the county in which the property is located. The report or notice shall set forth all results from the sale, or a separate report or notice may be created for each property sold.

(3) The report or notice shall include, at a minimum, the identification of the property and defendants contained in the notice of sale as required by § 67-5-2502, the name of the successful bidder, and the total successful price bid for each parcel together with the instrument number of the last conveyance of record.

- (4) The report or notice shall be for notice purposes only and shall not be evidence of transfer of title.
- (5) Failure to timely record the report or notice shall not provide grounds to set the sale aside.
- (6) The document shall be exempt from recording fees pursuant to § 8-21-1001, and shall be indexed by the register under the name of the last owner of record.

67-5-2502. Notice of sale of land.

(a)

(1) In the event of a sale under a decree of the court, the property shall be advertised in one (1) sale notice, which notice shall set out the names of the owners of the different tracts or parcels of land and describe the property and set out the amount of judgment against each defendant. The description of the property shall include a concise description, that means a reference to a deed book and page that contains a complete legal description of the property or the official property number as provided by § 67-5-806, and may also include a common description of the property, which may include street name and number, map and parcel number, number of acres, or any other description which might help identify the property as it is commonly known. The purpose of the common description is to help identify the property that is described in the concise description. Any error or defect in the common description shall not in any way void any sale of the property; provided, that the concise description makes accurate reference to the last conveyance of the property by correct reference to a deed book and page or the official property number as provided by § 67-5-806.

(2) A notice of the tax sale shall be published at least once in a newspaper of general circulation in the county where the parcels are located, or, with the approval of the court, the notice may be published by printed handbills publicly posted in the county where the parcels are located in such manner as the court may determine will provide adequate public awareness of the sale. Any such publication shall first occur at least twenty (20) days before the sale date.

(3) Notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, except as modified in this chapter or as they may be inconsistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter, and may be forwarded to the address of an owner of the property that is on record in the office of the assessor of property. If there is any remainder after the proceeds of the sale have been distributed pursuant to § 67-5-2501, the party receiving notice pursuant to this subdivision (a)(3) shall also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder.

(4)

Proposal #5

(A) A person, who is either expressly or impliedly authorized by another person to receive mail on behalf of the other person, is authorized to sign a receipt on behalf of the other person accepting registered or certified mail or correspondence delivered by an alternative delivery service, containing either a summons, complaint, or summary of the proceeding or a notice that has been or is to be filed in a tax proceeding. In every tax proceeding, the burden of proving by clear and convincing evidence that a person who signed such a receipt for a different person and was, in fact, at that time expressly prohibited in writing from accepting mail for the second person, shall be upon the person challenging the sufficiency of the service or notice.

(B) Proof of delivery of summons, notice or other correspondence filed or to be filed in the proceeding, by certified mail, return receipt requested, or by an alternative delivery service with return receipt requested, may also be proved by reference to the tracking records located on the website of the delivery service.

(C) The failure of a person accepting such mail to fully complete the receipt with a legible signature, a printed name and delivery date, shall create a presumption that the receipt was executed by the addressee or a person with authority or implied authority to accept mail and service of process for the addressee. However, such presumption may be rebutted in the manner set out in subsection (A) above.

(5)

(A) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to the owner.

(B) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to all assignees of the owner if evidence of the assignment has not been recorded in the office of the register of deeds in the county where the parcel is located.

(C) This subdivision (a)(5) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(6) The clerk or special master conducting the sale may, on suggestion of the delinquent tax attorney, withdraw any parcel from the sale.

(b) It is the responsibility of the property owner to register the property owner's name and address with the assessor of property of the county in which the land lies.

(c)

(1) For the purposes of this chapter, unless the context requires otherwise:

(A) "Diligent effort to give actual notice of the proceedings" means a reasonable effort to give notice which is reasonably calculated, under all the circumstances and conditions, to apprise interested persons of the pendency of the proceedings in time to afford them an opportunity to prevent the loss of their interest in the parcel. Such effort shall be such as one desirous of actually informing the persons might reasonably adopt to accomplish it. Such effort does not, however, require that an interested person receive actual notice. Nor does it require the plaintiff to search records or sources of information in addition to that information available in the specific offices listed in subdivision (c)(2). **Nor does it require the tax entity or delinquent tax attorney to obtain discovery as authorized by the Tennessee Rules of Civil Procedure, or otherwise;**

(B) "Interested person", "person owning an interest in a parcel" and "owner" means a person, including any governmental entity, that owns an interest in a parcel and includes a person, including any governmental entity, that holds a lien against a parcel or is the assignee of a holder of such a lien. "Interested person" also includes a person or entity named as nominee or agent of the owner of the obligation that is secured by the deed or a deed of trust and that is identifiable from information provided in the deed or a deed of trust, which shall include a mailing address or post office box of the nominee or agent. However, a person named as a trustee under a deed of trust, contract lien or security instrument, is not included in such definition unless the person has a separate interest in the parcel;

(C) "Parcel" means a tract or item of real or personal property which is the subject of a judicial proceeding to obtain a personal judgment for the taxes owing or to enforce the lien securing the payment of delinquent property taxes by a sale of the tract or item; and

(D) "Proceeding" and "proceedings" means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of the first lien securing such taxes. **"Proceeding" or "tax proceeding" means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of**

Proposal #12

Proposal #3

the first lien securing such taxes. The court shall have jurisdiction to determine all issues arising in the proceedings including issues arising before and after the confirmation of the sale of a parcel, including redemption, disposition of excess proceeds and all issues arising pursuant to § 67-5-2507.

- (2) The delinquent tax attorney shall make a reasonable search of the public records in the offices of the assessor of property, trustee, the register of deeds, and the local office where wills are recorded, seeking to identify and locate all interested persons as to each parcel listed on the county and municipal delinquent tax lists filed in the cause. The court shall set a reasonable attorney's fee per parcel, as defined in subdivision (c)(1), per year of delinquent taxes owed and per taxing entity, for the services required by this subsection (c), which shall become an additional expense of the proceeding and shall be secured by the first lien in favor of the tax entity pursuant to § 67-5-2101. The fee shall be charged to each pending parcel listed on the county and municipal delinquent tax lists filed in the tax proceeding and each parcel subsequently turned over for collection in a tax proceeding.
- (3) The delinquent tax attorney shall make a diligent effort to give actual notice of the proceedings to all interested persons, as identified by the searches described in subdivision (c)(2).
- (d) A tax sale notice, which shall be the same or substantially the same as the advertised notice, may be recorded in the register of deeds' office for the county in which the property is located upon the setting of the tax sale date. The recording cost shall be divided between the parcels of land listed in the tax sale notice and added as an additional court cost to each such parcel of land. This tax sale notice shall be recorded for informational purposes only and no release shall be required.
- (e)
- (1) Any owner of a surface interest in property overlying a mineral interest may record a declaration of the owner's interest in such land with the register of deeds in the county where the mineral interest is located. Declaration forms shall be available at the register's office and shall include the name of the owner of mineral interest beneath the surface. Declaration forms received by the register's office shall be recorded by the register in the dormant mineral interest record. Declaration forms shall be indexed under the names of the mineral interest owners as grantor or grantors and under the names of the surface owners as grantee or grantees. Recording the declaration of surface ownership shall entitle surface owners to receive notice described in subdivision (e)(2).
- (2) In the event of the sale of severed mineral interest property pursuant to § 67-5-2501, the clerk of the court shall send, by certified return receipt mail, a notice of proceedings regarding the sale of that mineral interest to any owner of the surface interest who has recorded a declaration of surface ownership as described in subdivision (e)(1).
- (3)
- (A) The owner of surface interest who has recorded a declaration of surface ownership according to subdivision (e)(1), and who has received notice of delinquent tax proceedings according to this section may, within one hundred twenty (120) days after the sale pursuant to § 67-5-2501, purchase the mineral interest beneath the owner's tract for a percentage of the total amount of such sale, which percentage shall be derived from the percentage that the owner's surface interest bears to the total surface area of the property connected with the mineral interest sold at such tax sale.
- (B) Such surface owner shall tender to the clerk of court such amount, including a pro-rated amount of the penalty and interest paid, at the same percentage rate. The clerk shall, within thirty (30) days of receipt of such amount pay the same amount to the person who purchased the mineral interest at the tax sale. The surface owner shall, in addition, pay the clerk for the clerk's services in such transaction.
- (f) Any sale under this section may be adjourned and rescheduled one (1) time for cause without an additional newspaper publication or decree, upon compliance with the following provisions:

- (1) The sale must be held within one (1) year of the originally scheduled date;
- (2) The postponement or adjournment must be to a specified date and time, and must be posted or announced at the date, time, and location of the scheduled sale date; and
- (3) If the postponement or adjournment is for more than thirty (30) days, notice of the new date, time, and location must be mailed no less than ten (10) calendar days prior to the sale date via regular mail to the parties to the suit, with a copy of such notice filed with the clerk of court.

67-5-2504. Attacks on sale of land – Rights of purchaser.

(a)

- (1) Any person who buys real estate sold for delinquent taxes that were a lien thereon, and who shall for any cause fail to get a good title or to recover possession of the realty, shall be subrogated to all liens that secured the taxes, and all interest, costs, penalties and fees; and such person shall have the right to enforce the same in chancery for the reimbursement of the purchase money paid by such person and interest thereon.
- (2) The chancery court shall have jurisdiction, in such case, though the amount sued for be less than fifty dollars (\$50.00).

(b) A tax deed of conveyance or an order confirming the sale shall be an assurance of perfect title to the purchaser of such land, and no such conveyance shall 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 subsection (c) prior to the filing of the complaint. **This statute does not presuppose a valid vestiture of title in the purchaser at the tax sale.**

Proposal #6

(c) No suit shall be commenced in any court of the state to invalidate or declare void any tax title to land until the party suing shall have 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 as provided in this part.

(d)

- (1) A suit to invalidate any tax title to land shall be commenced within one (1) year from the date the cause of action accrued, which is the date of the entry of the order confirming the tax sale.
- (2) The statute of limitations to invalidate the sale of any tax title shall be one (1) year as set forth in subdivision (d)(1), except that it may be extended to one (1) year after the plaintiff discovered or with the exercise of reasonable due diligence should have discovered the existence of such cause of action.
- (3) In no event shall any action to invalidate any tax sale title be brought more than three (3) years after the entry of the order confirming the tax sale.
- (4) This subsection (d) shall not be construed to prevent or delay issuance of an order quieting title to a tax sale parcel in favor of the purchaser. 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 provided in this subsection (d), or the redemption period provided in part 27 of this chapter. 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.
- (5) Nothing in this subsection (d) shall limit the time in which a motion for excess proceeds may be filed pursuant to § 67-5-2702.

(e) In all cases where the state is not the holder of the legal title to the property bought by it at a tax sale for delinquent state and county taxes, any person desiring to attack the validity of such tax sale may do so by making only the holder of the legal or equitable title thereto and those persons claiming through such holder who are parties to such suit, and it shall not be necessary to make the state a party thereto.

(f) 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 as set out in § 67-5-2701(b) and (e), 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.

(g) An order confirming the sale of a parcel is voidable and may be voided by the court after a determination of the merits of the grounds for the action as set out in this chapter and any defenses raised.

(h) For the purposes of this chapter, a motion filed pursuant to Rule 60.02 of the Tennessee Rules of Civil Procedure, or any other or successor rule of similar effect, challenging the validity of a tax sale and any independent action for a similar purpose, shall be considered an action to invalidate the sale of a tax title.

(i)

(1) An interested person may file an action to challenge a tax title or the instrument conveying such title if the delinquent tax attorney fails to make a diligent effort to give actual notice of the proceeding to the interested person in accordance with § 67-5-2502(c)(3).

(2) Any challenge to a tax title based on lack of notice to an interested party, including any action seeking to declare a title or the instrument conveying such title void ab initio, shall be considered an action to invalidate the sale of a tax title and such action is subject to the provisions of parts 18-28 of this chapter applying to actions to invalidate the sale of a tax title, including the required tender of payment before commencement of a suit in accordance with subsection (c).

(3) This subsection (i) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

67-5-2506. Sale of land for county taxes only.

(a)

~~(1) When any land must be sold for payment of delinquent county taxes only, it shall be sold under this part and parts 20 and 24 of this chapter so far as they apply.~~ **When any parcel is sold for payment of delinquent taxes it shall be sold pursuant to the provisions of this chapter.**

(2) It is the duty of the clerk of the court ordering the sale to bid, on behalf of the governmental entities for which the taxes are owing, to ascertain the amount due for taxes, interest, penalties and costs, where no other bidder offers the same or higher bid; provided, that, in the case of property where the county legislative body has determined that no bid should be made on behalf of the governmental entities to which taxes are owing due to a determination that such property poses an environmental risk or has financial liabilities associated with the property such that it is not in the best interest of the county to take possession of the property, the clerk shall not offer a bid. The county legislative body may also make a determination that no bid shall be made on behalf of the governmental entities on nonbuildable or nonconforming parcels, including, without limitation:

- (A) Storm water detention basins;
- (B) Drainage ditches;
- (C) Private road right-of-ways;
- (D) Private drives;

Proposal #1

- (E) Common open areas; and
- (F) Utility easements.

(3) Up to ten percent (10%) of the sale proceeds shall be applied, first, to payment of any unpaid balance of compensation due the prosecuting attorney; second, the proceeds of the sale shall be applied to the costs of the suits; and third, the remainder shall be applied to the county first and second, to any municipality having a tax lien on the same property.

(4) This subsection (a) does not apply to counties with a metropolitan form of government or to counties having the following populations, according to the 1970 federal census or any subsequent federal census:

<u>not less than</u>	<u>nor more than</u>
3,765	5,200
6,600	6,700
8,100	8,200
12,300	12,350
12,400	12,550
14,700	14,800
36,900	37,100
56,200	56,300

(b)

(1) When any parcel is sold for payment of delinquent taxes, it shall be sold pursuant to this chapter. This subdivision (b)(1) is procedural and remedial in its application and is made applicable retroactively to the extent allowed by law.

(2) It is the duty of the clerk of the court ordering the sale to bid, on behalf of the governmental entities for which the taxes are owing, to ascertain the amount due for taxes, interest, penalties and costs, where no other bidder offers the same or higher bid; provided, that, in the case of property where the county legislative body has determined that no bid should be made on behalf of the governmental entities to which taxes are owing due to a determination that such property poses an environmental risk, the clerk shall not offer a bid.

(3) The proceeds from such sale shall be applied, first, to the payment of the penalty allowed as compensation for prosecuting the suits; second, to the costs; and third, the remainder shall be prorated, first, to the county and, second, to any municipality that has a tax lien thereon.

(4) This subsection (b) applies only to counties with a metropolitan form of government and to counties having the following populations, according to the 1970 federal census or any subsequent federal census:

<u>not less than</u>	<u>nor more than</u>
3,765	5,200
6,600	6,700
8,100	8,200
12,300	12,350
12,400	12,550
14,700	14,800
36,900	37,100
56,200	56,300

67-5-2507. Sale of land — County as purchaser — Deferred sale.

(a)

Proposal #8

- ~~(1) It is the duty of the county mayor of each county to take charge of all the lands bought in by the county at such delinquent tax sales.~~
- ~~(2) During the period when redemption of any such tract of land can be made, the land shall be:~~
- ~~(A) Held and put only to a use that will not result in a waste of the land; or~~
- ~~(B) Sold to a third party, in accordance with subsection (b), subject to the right of redemption. If any parcel is sold subject to redemption, it may be redeemed in accordance with § 67-5-2701.~~
- ~~(3) 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 (5) years.~~
- ~~(4) 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.~~
- ~~(b)~~
- ~~(1) A committee of four (4) 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, compiled in title 5, chapter 21, the financial management committee created by § 5-21-104 may serve as this committee, instead of the committee as established in this subdivision (b)(1).~~
- ~~(2) Such 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 (3) years and a lien shall be retained to secure purchase price.~~
- ~~(3) 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.~~
- ~~(4) Interest shall be 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.~~
- ~~(5) 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 (10) 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.~~
- ~~(6) If anyone, during such ten (10) days, increases the offer made for the land by ten percent (10%) or more, the party making the first offer shall be notified and a day fixed when both parties shall appear and make offers.~~
- ~~(7) The tract of land shall be sold to the party making the highest and best offer.~~
- ~~(8) 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.~~
- ~~(9) The deed shall be prepared by the back tax attorney as a part of the duties for which the attorney is compensated by § 67-5-2410, and no additional compensation shall be allowed.~~
- ~~(10) 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.~~

~~(H) This subsection (b) shall not apply in any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.~~

~~(e)~~

~~(1) As to a particular parcel conveyed to a county pursuant to § 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.~~

~~(2) If the county mayor determines that such financial obligations or environmental risks exceed the value of the parcel, the county legislative body may adopt a resolution, by a two-thirds (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 shall 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.~~

~~(3) 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 this subsection (e) 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.~~

~~(4) 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 § 67-5-2516.~~

~~(5) This subsection (e) 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 § 67-5-2501.~~

~~(a)~~

(1) The county mayor shall cause a certified copy of all orders confirming the sale of a parcel to the county pursuant to § 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 § 67-5-2501.

(2) The county legislative body may adopt regulations concerning sales of parcels purchased by the county at a delinquent tax sale. The regulations shall 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:

(A) That parcels may be sold on credit and the terms thereof;

(B) 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;

(C) Other similar issues regarding the procedures of sale; and

(D) Procedures, terms, and conditions applicable to conveyances of a parcel pursuant to subsection (b).

(3)

(A) Unless otherwise required by the regulations adopted by the county legislative body, each parcel shall be offered for sale with no minimum bid or approval by the county legislative body required.

- (B) The county mayor may solicit offers for one (1) or more individual parcels or for all parcels on a list prepared pursuant to § 67-5-2511.
- (C) Any solicitation of offers shall contain a statement as to how and where offers may be filed, and shall be published in a newspaper of general circulation in the county.
- (4) The county shall be immune from liability for all dues, fees, and assessments secured by a lien upon the parcel purchased by the county at a delinquent tax sale if:
 - (A) Offers are solicited for the parcel;
 - (B) No minimum amount is established for a sale of the parcel; and
 - (C) No offer is received within thirty (30) days of the publication of the solicitation in a newspaper of general circulation in the county.
- (5)
 - (A) 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 anyone 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 shall be eligible to offer bids at the auction. The highest bidder at such auction shall be the successful bidder. If no raise offer is timely filed, the original bidder shall be the successful bidder.
 - (B) The county mayor may approve the sale by internet sale, of parcels purchased by the county at a delinquent tax sale pursuant to § 67-5-2501. The provisions of subsection (5)(A) may be waived by the county mayor as to parcels offered for sale by internet sale. The highest bidder at such internet auction shall be the successful bidder.
- (6) The proceeds derived from retentions or conveyances of parcels purchased by the county at a delinquent tax sale pursuant to § 67-5-2501 shall be applied in the following order:
 - (A) First, proceeds shall 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;
 - (B) Any proceeds remaining after the application of proceeds provided by subdivision (a)(6)(A) shall 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 Section 2502 of this Chapter;
 - (C) Any proceeds remaining after the application of proceeds provided by subdivisions (a)(6)(A) and (B) shall 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
 - (D) Any proceeds remaining after the application of proceeds provided by subdivisions (a)(6)(A)-(C) shall inure to the benefit of the county.
- (7) Upon compliance with this section, the parcel shall 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 which may not have been paid pursuant to this section.
- (8) Any conveyance or retention of a parcel that occurs before the expiration of the redemption period provided in part 27 of this chapter shall remain subject to the right of redemption. No conveyance or retention of a parcel shall affect the redemption period applicable to the parcel.

- (9) The county mayor is not required to seek approval of the county legislative body to supervise the sale and conveyance of each parcel unless:
- (A) Otherwise required by the regulations adopted by the county legislative body; or
 - (B) The county legislative body has determined to retain or convey the parcel pursuant to subsection (b).
- (b)
- (1) 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 § 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) Any governmental entity, including a corporation created pursuant to the Tennessee Local Land Bank Program as codified at Tennessee Code Annotated, Section 13-30-101 et seq; or
 - (B) A nonprofit entity; provided, that the parcel is transferred in accordance with subdivision (b)(3).
- (2) A document evidencing the determination of the county legislative body to retain ownership of a parcel in accordance with subdivision (b)(1) shall be recorded in the office of the register of deeds.
- (3) To be eligible to receive a parcel pursuant to subdivision (b)(1)(B), a nonprofit entity shall comply with the following requirements:
- (A) The entity shall be exempt from federal income taxation under § 501(a) of the Internal Revenue Code, codified in 26 U.S.C. § 501(a), or an organization described in § 501(c) of the Internal Revenue Code, codified in 26 U.S.C. § 501 (c);
 - (B) The entity shall agree that the conveyed parcel shall be used by the entity for at least a reasonable period for the purposes for which the entity was chartered; and
 - (C) The entity shall have been chartered to:
 - (i) Construct or to restore residential dwellings for the purpose of creating affordable and habitable housing for the disadvantaged and needy citizens of the community;
 - (ii) Construct or to restore historical properties or buildings in the community;
 - (iii) Operate or maintain a community garden in the community; or
 - (iv) Construct, operate, or maintain a park, memorial, or gathering place in the community, available for use by the general public.
- (c) Conveyances of parcels shall be made without warranties by the county. Deeds shall be executed by the county mayor. The execution of a deed shall constitute 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 shall not be overturned absent clear and convincing evidence of a substantial and material violation of a statutorily mandated requirement.
- (d) In the event 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 shall be made as to all interested persons as of the date of the filing of the motion.
- (e) In the event a municipality does not authorize the county to convey its interest in tax parcels pursuant to § 67-5-1801(a), or in the event 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 § 67-5-2511. In such event, the municipality's legislative body shall have the powers and duties of the county legislative body as set out in this section and § 67-5-2511; its chief executive officer shall have the powers

and duties of the county mayor as set out in this section and § 67-5-2511, and the municipality shall stand in the place and stead of the county.

(f)

(1) As to a particular parcel conveyed to a county pursuant to TCA 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.

(2) 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 (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 shall 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.

(3) 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 insure that the provisions of this subsection (f) do 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 which may be accepted at the sale.

(4) As an alternative to ordering a second sale or 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 but not limited to the conveyance to a nongovernmental entity claiming contractual rights to dues or assessments pursuant to TCA 67-5-2516. 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.

(5) The provisions in this subsection (f) shall be applicable to the risks of an individual parcel only and shall not be applicable to the aggregated risks of all or multiple parcels bid in to the county pursuant to TCA 67-5-2501.

67-5-2508. Sale of property — Political subdivision as purchaser. General Principles Relating to Forced Sales to Taxing Entities

Proposal #8

(a)

~~(1) Any county, city, town, taxing district or other municipal corporation in Tennessee is authorized to bid at any sale of property sold for nonpayment of taxes or assessments levied against the property, or to enforce the lien of any taxes or assessments levied against such property, upon which property any such county, city, town, taxing district or other municipal corporation may have a lien for taxes or assessments, and to buy at any such sale.~~

~~(2) Such counties, cities, towns, taxing districts and municipal corporations are expressly authorized to bid such amounts in excess of the total amount of taxes, interest, penalties, attorney's fees, costs and other charges incident thereto as may be authorized by the county legislative body, or the legislative council or other governing bodies of cities, towns, taxing districts and other municipal corporations, and to execute such notes or other evidence of~~

~~indebtedness for any part of the purchase price of such property as may be authorized by the county legislative body, or by the legislative council or other governing bodies of such cities, towns, taxing districts or other municipal corporations.~~

~~(3) Any such counties, cities, towns, taxing districts or other municipal corporations may bid at such sales, either jointly or separately, being expressly authorized in the event of joint bids, to contract with reference thereto and execute all contracts necessary or incidental to such joint bids.~~

~~(b)~~

~~(1) If at any sale of property for taxes or assessments levied against the property, or for the enforcement of the lien of such taxes or other assessments, any county, city, town, taxing district or other municipal corporation shall be the successful bidder and become the purchaser of such property at any such sale, it shall be and is expressly authorized to take credit on any note, notes or other evidence of indebtedness executed as all or part of the purchase price of such property for any taxes or assessments against the property, owed to such county, city, town, taxing district or other municipal corporation. Such county, city, town, taxing district or other municipal corporation is expressly exempted from furnishing any security for payment of any such notes or other evidence of indebtedness for all or any part of the purchase price of any such property purchased by it by authority of or under this section.~~

~~(2) Any county, city, town, taxing district, or other municipal corporation, having become a purchaser at a tax sale, or having otherwise acquired real estate, may fully discharge the lien or liens of delinquent taxes of the state that have priority or are superior to its lien for taxes, by paying into the hands of the clerk and master or clerk conducting such sale, the net amount of such state taxes without interest or penalty.~~

~~(c)~~

~~(1) Upon the purchase of land by a municipality at a delinquent tax sale for municipal taxes only, and after the period of redemption has lapsed, the municipality may, upon a majority vote of the governing body determining it impracticable to sell the property for the full amount of the taxes, penalty, cost and interest, sell the property for less than this amount.~~

~~(2) Subdivision (c)(1) shall not apply in any county having a metropolitan form of government and a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census.~~

~~(3) The municipality may, upon a majority vote of its legislative body determining it in the best interests of the municipality to use the property for a public purpose, decide to retain ownership and possession of such property.~~

~~(d) Upon the purchase of land by a municipality or by a county at a delinquent tax sale, after the period of redemption has lapsed, when both municipal and county taxes are delinquent:~~

~~(1) The municipality may, upon a majority vote of the respective governing body determining it impracticable to sell the property for the full amount of the taxes, penalty, cost and interest, sell the property for less than this amount, and the county shall be joined in such tax sale;~~

~~(2) The county may conduct a sale in accordance with [former] § 67-5-2507(b)(5), and the municipality shall be joined in such tax sale;~~

~~(3) Any resulting revenue from such tax sale shall be apportioned to the municipality and county pro rata based on the amount of delinquent taxes; and~~

~~(4) The county or municipality may, upon a majority vote of its legislative body determining it in the best interests of such county or municipality to use the property for a public purpose, decide to retain ownership and possession of such property. The county or municipality wishing to retain the property shall pay to the other governmental entity its pro rata share of the joint bid amount at the tax sale, upon receipt of which the other governmental entity shall execute a quitclaim deed conveying its interest in the property.~~

(a) The priorities of a taxing entity purchasing a parcel at a tax sale pursuant to TCA 67-5-2501 shall be to either return the parcel to the tax rolls or put the parcel to a use benefitting the public within a reasonably prompt period after purchasing the parcel.

(b) If no qualified newspaper is published in the county, then any notice required by this Act may be posted on a website maintained by the taxing entity or the clerk of the court where the tax proceeding is pending. If no website is maintained by the taxing entity or clerk, the notice shall be posted at the courthouse or other public building where such notices are frequently posted. The Court in which the tax proceeding was filed may establish additional advertising requirements.

(c) In the event the bid of a purchaser from the taxing entity of a parcel purchased by the taxing entity at a tax sale which parcel is subject to a redemption period, is greater than the proceeds of a subsequently approved redemption, the purchaser shall bear the loss.

~~67-5-2509. Exemption from taxation — Land purchased, resold or rented by state or political subdivision.~~ [Reserved]

~~(a) Whenever land is purchased at a tax sale by the state, by a county, or by a municipality of the state by a county and a municipality, as tenants in common, and the state, a county or municipality, or a county and municipality, goes into or takes actual possession of such land, the land shall, after the expiration of the period of redemption provided in § 67-5-2701, be exempt from taxation, as property held for a public, county or municipal purpose, and no taxes shall be collected thereon, and no assessment shall be made thereon, so long as the property is held for the purpose of realizing therefrom the taxes and assessments that have been lost by the several tax funds entitled thereto as result of the failure of the former owner of the property to pay the taxes for which the sale was held.~~

Proposal #8

~~(b) When the state, a county or a municipality, or any or all of them, has recovered from the sale or rental of any property purchased by them, or any one, or any combination of them, moneys sufficient to pay the taxes for which the property was sold, it shall be the duty of the officers of the state, the county and/or municipality, charged with the handling of the property, to report the recovery to the assessors of the county and municipality for assessment, it being the declared intention of the general assembly that such property is not held for a public, county and municipal purpose after the taxes, for which the sale was held, and subsequently accruing taxes through the period of redemption have been realized from the collection of net income therefrom or from the net sale price thereof, unless in the meantime the property shall have become devoted by the state, or by a county or a municipality, to a use otherwise recognized by law as a state or municipal purpose.~~

~~(c) (1) In lieu of the sale to private purchasers as provided in [former] § 67-5-2505 [repealed], and §§ 67-5-2507 and 67-5-2508, the proper officers of the state, the county, and the municipality, or any or all of the officers who have an interest in the property, may convey the property to any other governmental entity meeting the conditions specified below, at any terms deemed appropriate to such officers. In order to receive property under this subsection (c), a governmental entity must certify to such officers that the property is to be used for purposes that would make the property subject to condemnation by the governmental entity under its powers of eminent domain.~~

~~(2) In lieu of the sale to private purchasers as provided in [former] § 67-5-2505 [repealed], and §§ 67-5-2507 and 67-5-2508, the proper officers of the municipality or county may convey property permitted to be used for residential purposes to a private nonprofit entity that meets all conditions specified in this subdivision (c)(2), on any terms deemed appropriate to the officers:~~

~~(A) The entity is certified as a tax exempt entity under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3)); and~~

~~(B) The entity is chartered to construct or to restore residential dwellings for the purpose of creating affordable and habitable housing for the disadvantaged and needy, and the property conveyed to the entity is used for that purpose; and~~

~~(C) The property, once constructed or restored, is conveyed to an individual or family for use as an owner-occupied residence.~~

~~(3) In any county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, in lieu of the sale to private purchasers as provided in [former] § 67-5-2505 [repealed], and §§ 67-5-2507 and 67-5-2508, the proper officers of the municipality or county may convey property purchased at a tax sale as provided in subsection (a) to the agency or commission of such municipality or county for redevelopment of properties certified under title 13, chapter 21, part 2, for those uses authorized by § 13-21-202(4), as amended by chapter 948 of the Public Acts of 1998, commonly referred to as the Community Redevelopment Act of 1998.~~

~~(4) In any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, in lieu of the sale to private purchasers as provided in [former] § 67-5-2505 [repealed], and §§ 67-5-2507 and 67-5-2508, the governing body of the municipality or county may convey property to a nonprofit community development corporation for purposes wherein use by the nonprofit community development corporation is deemed by the governing body of the municipality or county to inure to the benefit of the area the recipient nonprofit community development corporation is chartered or authorized to serve. The property may be conveyed on terms, including but not limited to, limitations of use or reversion, as deemed appropriate to the governing body of the municipality or county, except that under no circumstances shall the nonprofit community development corporation be required to pay the taxes, penalties or interest for which the property was sold.~~

~~(5) In any county having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, in lieu of the sale to private purchasers as provided in [former] § 67-5-2505 [repealed], and §§ 67-5-2507 and 67-5-2508, the proper officers of the municipality or county may convey properties with road frontage no greater than twenty four feet (24) acquired in tax sales to adjoining property owners upon establishing a fair market value (FMV), based upon both value enhancing and value decreasing factors, after the adjoining property owner has made sufficient in-kind payments, including, but not limited to, cutting, cleaning or improving the property, and accepting general liability for the premises. These actual or in-kind payments shall be equal to the FMV established for the property.~~

~~(6) In lieu of the sale to private purchasers as provided in [former] subsection (b), the proper officers of the municipality or county may convey real property suitable for community gardening, as defined in § 43-24-102, to a private nonprofit entity that meets all conditions specified in this subdivision (c)(6), on any terms deemed appropriate to the officers:~~

~~(A) The entity is certified as a tax exempt entity under § 501(c)(3) of the Internal Revenue Code (26 U.S.C. § 501(c)(3));~~

~~(B) The entity is qualified to operate and maintain a community garden in the judgment of the officers of the municipality or county; and~~

~~(C) Any interest in or use of real property conveyed pursuant to this subdivision (c)(6) shall revert to the municipality or county if the entity, or a successor nonprofit entity that meets all of the conditions of this subdivision (c)(6), ceases to operate and maintain a community garden on the property.~~

~~**67-5-2510. Property purchased by state or political subdivision
—Satisfaction of delinquency and removal from tax rolls—**~~

[Reserved]

Proposal #8

~~(a) Whenever any property is sold at a tax sale and is purchased by the state, by a county, by a municipality, or by a county and municipality, the officers of the state, or the county, or the municipality, or of county and municipality, purchasing the property, shall notify the county trustee and the collector of any municipal taxes that are a lien upon the property, when actual possession has been taken of such lands, and the county trustee and the collector of municipal taxes are then authorized and directed to note the payment of the taxes, for which the sale was held upon the tax rolls, by endorsing thereon the words: "Paid by sale of property, see Land Ledger, p. ; actual possession having been taken by (County, City, or City and County)," or equivalent words.~~

~~(b) If actual possession is not taken by the state, by a county, or by a municipality, or by a county and municipality, the lands shall not be removed from the tax rolls, nor shall the lands be removed from the tax rolls, if the owner or former tenant is permitted to remain in possession of the property without the payment of rent to the state, county or municipality or county and municipality.~~

67-5-2511. Listing of parcels owned by county or municipality.

~~(a)~~

Proposal #8

~~(1) The county mayor shall cause to be prepared and maintained a listing of all parcels owned by the county acquired pursuant to § 67-5-2501.~~

~~(2) The chief executive officer of a municipality shall cause to be prepared and maintained a listing of all parcels owned by the municipality acquired pursuant to § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county under subdivision (a)(1).~~

~~(3) Listings pursuant to this subsection (a) shall 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.~~

~~(b) At least annually, the county mayor shall determine if any additional parcels have been purchased by the county pursuant to § 67-5-2501 and shall publish an updated list, as necessary, in the same manner as the original list in accordance with subdivision (a)(3).~~

~~(c) Each list or notice published in accordance with this section may contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.~~

~~(d) 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 this section 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 (5) years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.~~

~~(a)~~

~~(1) The county mayor, with the assistance of the assessor of property, shall cause to be prepared and maintained, a listing of all parcels owned by the county acquired pursuant to § 67-5-2501.~~

~~(2) The chief executive officer of a municipality shall cause to be prepared and maintained, a listing of all parcels owned by the municipality acquired pursuant to § 67-5-2501; provided, however, that the listing may omit any property that is required to be listed by a county in accordance with subdivision 67-5-2511 (a)(1).~~

~~(3) Listings pursuant to this subsection (a) shall be prepared annually by July 1. The listings shall be published in a newspaper of general circulation in the county or posted on a web site with a notice of the posting published in a newspaper of general circulation in the county.~~

(b) At least annually the county mayor shall determine if any additional parcels have been purchased by the county pursuant to § 67-5-2501. If so, the county mayor shall publish the updated list in the same manner as the original list pursuant to subdivision (a)(3).

(c) Each list or notice published in accordance with this section shall contain a solicitation for offers to purchase the parcels listed and a statement as to how and where such offers may be filed.

(d) However, 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 required by this section until a sufficient number of parcels or area 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 marketed for more than five (5) years. A separate list of such designated parcels shall be maintained by the mayor or the mayor's designee.

67-5-2502. Notice of sale of land.

(a)

(1) In the event of a sale under a decree of the court, the property shall be advertised in one (1) sale notice, which notice shall set out the names of the owners of the different tracts or parcels of land and describe the property and set out the amount of judgment against each defendant. The description of the property shall include a concise description, that means a reference to a deed book and page that contains a complete legal description of the property or the official property number as provided by § 67-5-806, and may also include a common description of the property, which may include street name and number, map and parcel number, number of acres, or any other description which might help identify the property as it is commonly known. The purpose of the common description is to help identify the property that is described in the concise description. Any error or defect in the common description shall not in any way void any sale of the property; provided, that the concise description makes accurate reference to the last conveyance of the property by correct reference to a deed book and page or the official property number as provided by § 67-5-806.

(2) A notice of the tax sale shall be published at least once in a newspaper of general circulation in the county where the parcels are located, or, with the approval of the court, the notice may be published by printed handbills publicly posted in the county where the parcels are located in such manner as the court may determine will provide adequate public awareness of the sale. Any such publication shall first occur at least twenty (20) days before the sale date.

(3) Notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, except as modified in this chapter or as they may be inconsistent with the statutory scheme for the collection of delinquent property taxes set out in this chapter, and may be forwarded to the address of an owner of the property that is on record in the office of the assessor of property. If there is any remainder after the proceeds of the sale have been distributed pursuant to § 67-5-2501, the party receiving notice pursuant to this subdivision (a)(3) shall also be given notice of the amount of proceeds resulting from the sale, the division of such proceeds, and the remainder.

(4) A person, who is either expressly or impliedly authorized by another person to receive mail on behalf of the other person, is authorized to sign a receipt on behalf of the other person accepting registered or certified mail or correspondence delivered by an alternative delivery service, containing either a summons, complaint, or summary of the proceeding or a notice that has been or is to be filed in a tax proceeding. In every tax proceeding, the burden of proving by clear and convincing evidence that a person who signed such a receipt for a different person and was, in

fact, at that time expressly prohibited in writing from accepting mail for the second person, shall be upon the person challenging the sufficiency of the service or notice.

(5)

(A) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to the owner.

(B) Service on or notice to a nominee or agent of an owner, where the nominee or agent is identifiable from information provided in the deed or deed of trust, shall constitute service on or notice to all assignees of the owner if evidence of the assignment has not been recorded in the office of the register of deeds in the county where the parcel is located.

(C) This subdivision (a)(5) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.

(6) The clerk or special master conducting the sale may, on suggestion of the delinquent tax attorney, withdraw any parcel from the sale.

(b) It is the responsibility of the property owner to register the property owner's name and address with the assessor of property of the county in which the land lies.

(c)

(1) For the purposes of this chapter, unless the context requires otherwise:

(A) “Diligent effort to give actual notice of the proceedings” means a reasonable effort to give notice which is reasonably calculated, under all the circumstances and conditions, to apprise interested persons of the pendency of the proceedings in time to afford them an opportunity to prevent the loss of their interest in the parcel. Such effort shall be such as one desirous of actually informing the persons might reasonably adopt to accomplish it. Such effort does not, however, require that an interested person receive actual notice. Nor does it require the plaintiff to search records or sources of information in addition to that information available in the specific offices listed in subdivision (c)(2). **Nor does it require the tax entity or delinquent tax attorney to obtain discovery as authorized by the Tennessee Rules of Civil Procedure, or otherwise;**

(B) “Interested person”, “person owning an interest in a parcel” and “owner” means a person, including any governmental entity, that owns an interest in a parcel and includes a person, including any governmental entity, that holds a lien against a parcel or is the assignee of a holder of such a lien. “Interested person” also includes a person or entity named as nominee or agent of the owner of the obligation that is secured by the deed or a deed of trust and that is identifiable from information provided in the deed or a deed of trust, which shall include a mailing address or post office box of the nominee or agent. However, a person named as a trustee under a deed of trust, contract lien or security instrument, is not included in such definition unless the person has a separate interest in the parcel;

(C) “Parcel” means a tract or item of real or personal property which is the subject of a judicial proceeding to obtain a personal judgment for the taxes owing or to enforce the lien securing the payment of delinquent property taxes by a sale of the tract or item; and

(D) “Proceeding” and “proceedings” means a judicial proceeding filed by a governmental entity for the purpose of collecting delinquent property taxes owing the entity or including the enforcement of the first lien securing such taxes. The court shall have jurisdiction to determine all issues arising in the proceedings including issues arising before and after the confirmation of the sale of a parcel, including redemption, disposition of excess proceeds and all issues arising pursuant to § 67-5-2507.

(2) The delinquent tax attorney shall make a reasonable search of the public records in the offices of the assessor of property, trustee, the register of deeds, and the local office where wills are

recorded, seeking to identify and locate all interested persons as to each parcel listed on the county and municipal delinquent tax lists filed in the cause. The court shall set a reasonable attorney's fee per parcel, as defined in subdivision (c)(1), per year of delinquent taxes owed and per taxing entity, for the services required by this subsection (c), which shall become an additional expense of the proceeding and shall be secured by the first lien in favor of the tax entity pursuant to § 67-5-2101. The fee shall be charged to each pending parcel listed on the county and municipal delinquent tax lists filed in the tax proceeding and each parcel subsequently turned over for collection in a tax proceeding.

(3) The delinquent tax attorney shall make a diligent effort to give actual notice of the proceedings to all interested persons, as identified by the searches described in subdivision (c)(2).

(d) A tax sale notice, which shall be the same or substantially the same as the advertised notice, may be recorded in the register of deeds' office for the county in which the property is located upon the setting of the tax sale date. The recording cost shall be divided between the parcels of land listed in the tax sale notice and added as an additional court cost to each such parcel of land. This tax sale notice shall be recorded for informational purposes only and no release shall be required.

(e)

(1) Any owner of a surface interest in property overlying a mineral interest may record a declaration of the owner's interest in such land with the register of deeds in the county where the mineral interest is located. Declaration forms shall be available at the register's office and shall include the name of the owner of mineral interest beneath the surface. Declaration forms received by the register's office shall be recorded by the register in the dormant mineral interest record. Declaration forms shall be indexed under the names of the mineral interest owners as grantor or grantors and under the names of the surface owners as grantee or grantees. Recording the declaration of surface ownership shall entitle surface owners to receive notice described in subdivision (e)(2).

(2) In the event of the sale of severed mineral interest property pursuant to § 67-5-2501, the clerk of the court shall send, by certified return receipt mail, a notice of proceedings regarding the sale of that mineral interest to any owner of the surface interest who has recorded a declaration of surface ownership as described in subdivision (e)(1).

(3)

(A) The owner of surface interest who has recorded a declaration of surface ownership according to subdivision (e)(1), and who has received notice of delinquent tax proceedings according to this section may, within one hundred twenty (120) days after the sale pursuant to § 67-5-2501, purchase the mineral interest beneath the owner's tract for a percentage of the total amount of such sale, which percentage shall be derived from the percentage that the owner's surface interest bears to the total surface area of the property connected with the mineral interest sold at such tax sale.

(B) Such surface owner shall tender to the clerk of court such amount, including a pro-rated amount of the penalty and interest paid, at the same percentage rate. The clerk shall, within thirty (30) days of receipt of such amount pay the same amount to the person who purchased the mineral interest at the tax sale. The surface owner shall, in addition, pay the clerk for the clerk's services in such transaction.

(f) Any sale under this section may be adjourned and rescheduled one (1) time for cause without an additional newspaper publication or decree, upon compliance with the following provisions:

(1) The sale must be held within one (1) year of the originally scheduled date;

(2) The postponement or adjournment must be to a specified date and time, and must be posted or announced at the date, time, and location of the scheduled sale date; and

(3) If the postponement or adjournment is for more than thirty (30) days, notice of the new date, time, and location must be mailed no less than ten (10) calendar days prior to the sale date via regular mail to the parties to the suit, with a copy of such notice filed with the clerk of court.

67-5-2701. Procedure for redemption of property.

(a)

(1)

(A) Upon entry of an order confirming a sale of a parcel, a right to redeem shall vest in all interested persons. The right to redeem shall be exercised within the time period established by this subsection (a) beginning on the date of the entry of the order confirming the sale, but in no event shall the right to redeem be exercised more than one (1) year from that date. The redemption period of each parcel shall be determined by the court prior to the tax sale of the parcel and may also be stated in the order confirming the sale.

(B) Unless the court finds sufficient evidence to order a reduced redemption period pursuant to this section, the redemption period for each parcel shall be one (1) year.

(C) The redemption period shall be determined for each parcel based on the period of delinquency. Once the period of delinquency is established, the redemption period shall be set on the following scale:

(i) If the period of delinquency is five (5) years or less, the redemption period shall be one (1) year from the entry of the order confirming the sale;

(ii) If the period of delinquency is more than five (5) years but less than eight (8) years, the redemption period shall be one hundred eighty (180) days from the entry of the order confirming the sale; or

(iii) If the period of delinquency is eight (8) years or more, the redemption period shall be ninety (90) days from the entry of the order confirming the sale.

(D) For all property for which a showing is made pursuant to subdivision (a)(2), the redemption period shall be thirty (30) days from the entry of the order confirming the sale without regard to the number of years of delinquent taxes owed on the property, beyond that required to make the property legally eligible for the sale.

(2) A reasonable basis to believe that real property is vacant, or, in the case of vacant land, a reasonable basis to believe that the property is abandoned, shall, at a minimum, be based upon periodic inspections of the property over a two-month period at different times of the day where three (3) or more inspections reveal evidence of abandonment.

(3) As used in this section:

(A) "Evidence of abandonment" includes, but is not limited to, any of the following conditions:

(i) Overgrown or dead vegetation;

(ii) Accumulation of newspapers, circulars, flyers, or mail;

(iii) Past due utility notices, disconnected utilities, or utilities not in use;

(iv) Accumulation of trash, refuse, or other debris;

(v) Absence of window coverings such as curtains, blinds, or shutters;

(vi) One (1) or more boarded, missing, or broken windows;

(vii) The property is open to casual entry or trespass;

(viii) The property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons; or

(ix) Any of the conditions in subdivisions (a)(3)(A)(i) - (viii) exist and, if there is a mortgage on the property, the mortgagor does not occupy the property and has

informed the mortgagee or loan servicing company in writing that the mortgagor does not intend to occupy the property in the future;

(B) “Period of delinquency” means, with respect to a parcel, the longest consecutive number of years the property taxes on that parcel are delinquent and have not been paid to a jurisdiction, and for which years the collection of property taxes for that jurisdiction is being sought in the tax sale;

(C) “Person entitled to redeem” means, with respect to a parcel, any interested person, as defined in this chapter, as of the date of the sale or the date the motion to redeem is filed;

(D) “Vacant and abandoned” with respect to real property:

(i) Means:

(a) There is a reasonable basis to believe the property is not occupied as determined in accordance with subdivision (a)(2); or

(b) A court has determined that the property is a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners, or has otherwise declared the property unfit for occupancy; and

(ii) Does not include:

(a) An unoccupied building that is undergoing construction, renovation, or rehabilitation at the hands of a properly licensed contractor pursuant to a building permit; is proceeding to completion; and is in compliance with all applicable ordinances, codes, regulations, and statutes;

(b) A building occupied on a seasonal basis that is otherwise secure;

(c) A building that is secure, but is the subject of a probate action, action to quiet title, or other similar ownership dispute; provided, that the owners are exercising diligence in pursuit of resolution of the dispute;

(d) A building damaged by a natural disaster and one (1) or more owners intend to repair and reoccupy the property; provided, that the owners are exercising diligence in pursuit of completion of repairs at the property in accordance with subdivision (a)(3)(D)(ii)(a); or

(e) Any property occupied by the owner, a relative of the owner, or a tenant lawfully in possession; provided, that neither subdivision (a)(3)(A)(viii) nor subdivision (a)(3)(D)(i)(b) applies to the property.

(b)

(1) In order to redeem a parcel, the person entitled to redeem shall file a motion to such effect in the proceedings in which the parcel was sold. The motion shall describe the parcel, the date of the sale of the parcel, the date of the entry of the order confirming the sale and shall contain specific allegations establishing the right of the person to redeem the parcel. Prior to the filing of the motion to redeem, the movant shall pay to the clerk of the court an amount equal to the total amount of delinquent taxes, penalty, interest, court costs, and interest on the entire purchase price paid by the purchaser of the parcel. The interest shall be at the rate of twelve percent (12%) per annum, which shall begin to accrue on the date the purchaser pays the purchase price to the clerk and continuing until the motion to redeem is filed. If the entire amount owing is not timely paid to the clerk or if the motion to redeem is not timely filed, the redemption shall fail.

(2) In any motion to enforce a right of redemption brought by a transferee against a tax sale purchaser or other interested party:

~~**(A)** The tax sale purchaser or other interested party in whom the right of redemption originally vested must be served with a copy of the motion to redeem;~~

(A) The Movant shall serve a copy of the motion to redeem upon the tax sale purchaser, any grantee of the tax sale purchaser’s interest in the parcel and all other interested persons as of the date the motion to redeem is filed, in the manner set forth in Rule 5 of

Proposal
#17

the Tennessee Rules of Civil Procedure for pleadings not asserting new or additional claims for relief.

(B) The motion to redeem must be denied on the objection or response to the motion to redeem by the tax sale purchaser or any other interested party if it appears that the transferee is engaged in speculation or profiteering with respect to such right of redemption;

(C) Such speculation and profiteering is presumed if it appears that the transfer of the right of redemption was made for consideration in an amount less than the purchase price paid by the tax sale purchaser at the tax sale minus the amount the debtor would have been required to pay to redeem the property under this chapter; and

(D) If a motion to redeem by a transferee is denied under this subdivision (b)(2) based on a finding by the court of such speculation and profiteering, the court may award reasonable attorney's fees to the tax sale purchaser or any other interested party challenging the motion to redeem.

(3) Subdivision (b)(2) is intended to:

(A) Further the public policies of this state of protecting the interests of owners of real property subject to debt, protecting the integrity of the tax sale process, providing reliable tax sale titles to purchasers, and prohibiting the profiteering and speculation in rights of redemption; and

(B) Be remedial and construed to apply to any existing rights of redemption.

~~**(c)** Upon the filing of the motion to redeem and the payment of the required amount, the clerk shall within ten (10) days send a notice of the filing of the redemption motion to the purchaser and all persons entitled to redeem the parcel. The notice of redemption shall state the amount paid at the time of the filing of the motion and refer the persons to this section.~~

(c) Upon the filing of the motion to redeem and the payment of the required amount, the clerk shall within ten days send a notice of the filing of the motion to redeem to the tax sale purchaser and any grantee of the tax sale purchaser's interest who has filed notice of the purchase and a mailing address, with the clerk. The notice shall be forwarded to the last known address of the addressee. The notice shall state the amount paid at the time of the filing of the motion to redeem and refer the persons to this section.

(d) The purchaser may within thirty (30) days after the mailing of the notice of redemption, file a response seeking additional funds to be paid by the proposed redeemer to compensate the purchaser for amounts expended by the purchaser for the purposes set out in subsection (c). The response shall specifically set out the basis for each category of additional funds claimed. The response may also allege that the motion to redeem was not properly or timely filed. If no response is timely filed, the court shall determine whether the redemption has been properly made, and if so, **shall cause an order to be entered declaring the parcel redeemed.**

(e) Additional sums to be paid by the proposed redeemer at the demand of the purchaser, shall include the following:

(1) Additional ad valorem taxes, penalty, interest and court costs paid by the purchaser secured by a lien against the parcel, plus interest thereon at the rate set forth in subsection (b), accruing from the date of payment of the additional taxes by the purchaser until the date of payment by the proposed redeemer pursuant to order of the court;

(2) Reasonable payments made by the purchaser for insurance on the parcel and any improvements thereon;

(3) Reasonable cost paid by the purchaser to avoid permissive waste of the parcel;

(4) Reasonable expenses paid by the purchaser as a result of a judicial or administrative order or other official notice requiring the purchaser to immediately bring the property into compliance with applicable building code or zoning regulations;

(5) Reasonable payments by the purchaser for homeowner's association dues or obligations resulting from covenants running with the land which are secured by a lien against the parcel; and

Proposal
#17

Proposal
#18

Proposal
#18

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- (6) Additional interest at the rate set out in subsection (b), accruing from the date the motion to redeem was filed until the date the purchaser's response was filed. If the court determines that the purchaser has not delayed consideration of the motion to redeem and that any response filed by the purchaser for additional funds was based on a reasonable expectation that the expenditures of the purchaser were reimbursable pursuant to this section, then the court may require the proposed redeemer to also pay additional interest at the same rate, accruing from the date the purchaser's response was filed until the date of such payment. **If the court determines that disposition of a redemption motion has been unreasonably delayed for reasons not attributable to the purchaser or the proposed redeemer, the court may decline or limit an award of additional interest under this subsection.**
- (f) Any additional funds ordered to be paid by the proposed redeemer under this section shall be paid to the clerk prior to the later of the following dates:
- (1) The date of the expiration of the redemption period; or
 - (2) Thirty (30) days after the entry of the order allowing additional funds.
- (g) If the proposed redeemer timely pays the full amount of any additional funds ordered by the court, the court shall declare that the property has been redeemed.
- (h) If the proposed redeemer fails to timely pay the full amount of any additional funds ordered by the court, the redemption shall fail and any funds paid by the proposed redeemer shall be refunded to him less the clerk's fee and any other court costs.
- (i) In the event a person tenders the full amount owing in the proceeding at a time after the date of sale and prior to the entry of an order confirming the sale, the person shall also pay interest computed as established by subsection (b) on the total purchase price paid by the purchaser.
- (j) The court in which the proceedings are pending may order that any proposed redeemer shall also pay to the clerk the amount necessary to record any orders of the court in the office of the register of deeds. Such payment may be required to be paid upon the filing of the motion to redeem or upon determining whether any additional funds are to be allowed.
- (k) Upon any order pertaining to redemption becoming final, the clerk shall make such disbursements as are provided in the order.
- (l) In the event the court directs the delinquent tax attorney or an attorney ad litem to participate in the redemption portion of the proceedings as an assistance to the court, the court may allow a reasonable attorneys fee to be paid by either the movant or the purchaser as directed by the court.
- (m) In the event all parties to the action waive their right to appeal all issues in the cause, the clerk shall immediately disburse all amounts owing.
- (n) Upon entry of an order of the court declaring that the redemption is complete, title to the parcel shall be divested out of the purchaser, and the clerk shall promptly refund the purchase money and pay all sums due to the purchaser under this section. The interests of the taxpayer and other interested parties, or their successors in interest, shall be restored to that state which existed as of the date of entry of the order confirming the sale. Any lienholder who redeems the parcel may thereafter proceed to foreclose upon the parcel or otherwise enforce such lien.
- (o) During the redemption period, the purchaser shall have no obligation to purchase insurance on the parcel and shall not be liable to a person redeeming the parcel for damages to the parcel during such redemption period unless such damages are directly caused by intentional acts of the purchaser. This subsection (o) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.
- (p) During the redemption period and thereafter, a taxing entity which has purchased a parcel pursuant to § 67-5-2501 shall have no obligation to preserve the value of the parcel. This subsection (p) is intended to be procedural and remedial in application and is made applicable retroactively to the extent allowed by law.