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Operation of the Business and Recordkeeping Requirements

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Operation of the Business and Recordkeeping Requirements

Reference Number: CTAS-408

The operating, recordkeeping, and inspection rules under current law apply to all pawnbrokers, even those licensed under provisions of prior law. A general discussion of the basic requirements for operation of the pawnbroker business follows. However, county clerks should never attempt to advise pawnbrokers as to specific legal requirements for operation of the business; pawnbrokers should always be advised to consult their attorneys for advice.

Recordkeeping and Notice Requirements

Reference Number: CTAS-409

Pawnbrokers are required to keep a consecutively numbered record of each pawn transaction which must correspond in all essential particulars to the detachable pawn ticket attached. At the time of making a pawn and/or buy sell transaction, the pawnbroker is required to record the following information, in ink and in English, on the pawnshop copy as well as on the pawn ticket:

- (1) A clear and accurate description of the property, including the serial number if the pledged article has one;
- (2) The date of the pawn transaction;
- (3) The amount of cash loan advanced on the pawn transaction;
- (4) The exact value of the property as stated by the pledgor;
- (5) The maturity date of the pawn transaction, which date shall not be less than thirty (30) days after the date of the pawn transaction; and
- (6) The name, race, sex, height, weight, date of birth, residence address, and numbers from the item(s) used as identification. (Acceptable items of identification are one of the following: state-issued driver license, state-issued identification card, passport, valid military identification, resident or nonresident alien border crossing card, or U.S. immigration and naturalization service identification.)

T.C.A. §§ 45-6-209, 45-6-213.

In addition to the foregoing, the following language is required to be printed on all tickets:

ANY PERSONAL PROPERTY PLEDGED TO A PAWNBROKER WITHIN THIS STATE IS SUBJECT TO SALE OR DISPOSAL WHEN THERE HAS BEEN NO PAYMENT MADE ON THE ACCOUNT FOR A PERIOD OF THIRTY (30) DAYS AFTER THE MATURITY DATE OF THE PAWN TRANSACTION AND NO FURTHER NOTICE IS NECESSARY.

THE PLEDGOR OF THIS ITEM ATTESTS THAT IT IS NOT STOLEN, IT HAS NO LIENS OR ENCUMBRANCES AGAINST IT AND THE PLEDGOR HAS THE RIGHT TO SELL OR PAWN THE ITEM.

THE ITEM PAWNED IS REDEEMABLE ONLY BY THE BEARER OF THIS TICKET.

T.C.A. § 45-6-211.

Both the pledgor and the pawnbroker are required to sign the stub, and the detached pawn ticket must be given to the pledgor. T.C.A. § 45-6-209. The records are required to be delivered to the appropriate law enforcement agency, by mail or in person, within forty-eight (48) hours following the day of the transactions. The records also must be available for inspection each business day, except Sunday, by the sheriff of the county and the chief of police of the municipality (if applicable) in which the pawnshop is located. Records must be carefully preserved without alterations. T.C.A. § 45-6-209. If requested by the law enforcement agency, the pawnbroker is required to transfer the required information electronically in text file format to the law enforcement agency in accordance with T.C.A. § 45-6-221.

Pawnbrokers are also required to furnish to law enforcement agencies, upon request, the names of suppliers from whom the pawnbroker has purchased merchandise for resale. This information is not to be recorded nor sent to the law enforcement agency, but shall be maintained at the pawnshop for a period of at least one (1) year from the date of purchase. T.C.A. § 45-6-216.

Interest Rate and Fees

Reference Number: CTAS-410

The interest rate charged by pawnbrokers is limited to two percent (2%) per month. The pawnbroker also may charge a fee not to exceed one fifth (1/5) of the amount of the loan advance for investigating the title, storage, insuring the pledged goods, closing the loan, making reports to local law enforcement officials, and for other expenses, losses of every nature, and all other services. No other charge of any description may be made by the pawnbroker. The allowable interest and fee are deemed owing on the date of the pawn transaction and on the same day of each subsequent month. T.C.A. § 45-6-210.

Default

Reference Number: CTAS-411

The pawnbroker must retain the pledged goods for thirty (30) days after the maturity date of the transaction. If the pledgor fails to redeem the pledged goods within the thirty (30) day period, the pawnbroker acquires absolute title to the goods and the debt becomes satisfied. The pawnbroker may then sell or otherwise dispose of the goods. T.C.A. § 45-6-211.

Hours of Operation

Reference Number: CTAS-412

Pawnbrokers may operate their businesses from eight o'clock in the morning (8:00 a.m.) until six o'clock in the evening (6:00 p.m.). From November 25 through December 24 each year, the business may remain open until nine o'clock in the evening (9:00 p.m.). T.C.A. § 45-6-212.

Prohibited Acts

Reference Number: CTAS-413

There are prohibited acts for pawnbrokers that, like any other violation of the act, constitute Class A misdemeanors that will subject the violator upon conviction to a fine of up to two thousand five hundred dollars (\$2,500.00) for each offense and imprisonment for up to eleven (11) months and twenty-nine (29) days under T.C.A. § 45-6-218. These prohibited acts include:

- (1) Accepting a pledge from a person under the age of eighteen (18) years; from a person who appears intoxicated; or from any person the pawnbroker knows to be a thief, or to have been convicted of larceny, burglary or robbery, without first notifying a police officer;
- (2) Making any agreement requiring the personal liability of a pledgor in connection with a pawn transaction;
- (3) Accepting any waiver (in writing or otherwise) of any right or protection accorded a pledgor under the act;
- (4) Failing to exercise reasonable care to protect pledged goods from loss or damage;
- (5) Failing to return pledged goods to a pledgor upon payment of the full amount due the pawnbroker on the pawn transaction. In the event the pledged goods are lost or damaged while in the possession of the pawnbroker, it is the responsibility of the pawnbroker to replace the goods with like kinds of merchandise or make reimbursement;
- (6) Purchasing property in a pawn transaction for the pawnbroker's own personal use;
- (7) Taking any article that is known to the pawnbroker to be stolen;
- (8) Selling, exchanging, bartering, or removing from the business, or permitting to be redeemed, any goods for a period of forty-eight (48) hours after making the required report to law enforcement agencies;
- (9) Operating more than one house, shop or place of business under one license;
- (10) Keeping the business open during prohibited hours; and
- (11) Entering into a pawn transaction with a maturity date of less than thirty (30) days after the date of the pawn transaction.

T.C.A. § 45-6-212.

If the violation is knowingly committed by an owner or major stockholder and/or managing partner, T.C.A. § 45-6-218 provides that the license of the pawnbroker may be suspended or revoked at the discretion of the county clerk. However, the Tennessee Attorney General has opined that this portion of that statute is unconstitutional. Op. Tenn. Att'y Gen. 89-53 (4/10/89).

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