



County Technical Assistance Service

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Authentication/Acknowledgment

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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Authentication/Acknowledgment

Reference Number: CTAS-780

Tennessee Code Annotated, Section 66-22-101 states:

Unless otherwise provided by law, to authenticate an instrument or document for registration or recording in the office of the county register, the maker or the natural person acting on behalf of the maker shall execute the instrument or document by that person's original signature and such signature shall be either acknowledged according to law or proved by at least two (2) subscribing witnesses. The county register may refuse to record any instrument or document not authenticated in accordance with this section. [T.C.A. § 66-22-101 was amended in 2004 to clearly authorize the register to refuse to register documents not signed or authenticated according to statute.]

The courts in Tennessee have held that before a writing listed in T.C.A. § 66-24-101 as being eligible for registration can be recorded, it must be acknowledged. McDonnell v. Amo, 162 Tenn. 36, S.W.2d 212 (1931); Henderson v. Watson, 25 Tenn. App. 506, 106 S.W.2d 429 (1942); Chattanooga Lumber & Coal Corp. v. Phillips, 202 Tenn. 266, 304 S.W.2d 82 (1957). However, the Tennessee Supreme Court has also held that notices of federal tax liens need not be acknowledged or witnessed as required by the Tennessee statutes, as federal law controls the practice. Howard v. United States, 566 S.W.2d 521 (Tenn. 1978); Copus v. Tidwell, 601 S.W.2d 708 (Tenn. 1980). Master forms for a mortgage or deed of trust do not need to be acknowledged to be eligible for recording. T.C.A. § 66-24-117.

T.C.A. § 66-22-115 provides that the form of a certificate of acknowledgment used by a person whose authority is recognized under T.C.A. §§ 66-22-103 and -104 to take acknowledgments in others states, territories or countries, shall be accepted in Tennessee if the certificate is in a form prescribed by the laws or regulations of Tennessee, or the certificate is in the form prescribed by the laws or regulations applicable in the other state, territory, or foreign country in which the acknowledgment is taken.

The register is not eligible to take an acknowledgment. The persons who are eligible to take acknowledgments are listed in T.C.A. § 66-22-102; they are county clerks or legally appointed deputy county clerks, clerks and masters of chancery courts, or a notary public of some county in this state. If a person executing an instrument is not a resident of this state, but resides within the Union or its territories, the instrument must be acknowledged by the procedure found in T.C.A. § 66-22-103 requiring special certification of the taker of the acknowledgment in some instances. **Any certificate clearly evidencing intent to authenticate, acknowledge or verify a document constitutes a valid certificate of acknowledgment. No specific form or wording is required.** T.C.A. § 66-22-114.

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