



November 22, 2024

General-County Clerk

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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General-County Clerk

Reference Number: CTAS-418

Qualifications-County Clerk

Reference Number: CTAS-52

In addition to the general qualifications for county offices, to qualify for election to the office of county clerk, a person must be a qualified voter and a resident of the county for one year prior to the qualifying deadline for running for county clerk. T.C.A. § 18-6-101.

Oath of Office and Bond-County Clerk

Reference Number: CTAS-53

Before entering into office, the county clerk must take and subscribe to the constitutional oath and the oath of office known as the fidelity oath. T.C.A. § 8-18-111. Oaths of office are covered under the General Information tab of the County Offices topic. The deputy's oath of office is the same as that of the county clerk; it must be certified, filed, and endorsed in the same manner. T.C.A. § 8-18-112.

Prior to entering into the duties of the office, the county clerk must post either a \$100,000 official bond in counties with a population of 15,000 or more, or a \$50,000 bond in counties with a population of less than 15,000. T.C.A. § 18-6-101. The bond must be approved by the county mayor. If a County Clerk is acting as clerk of a court, the judge of that court should also approve the official bond, and may require a greater bond. Bonds are covered in more detail under the General Information tab of the County Offices topic.

Compensation-County Clerk

Reference Number: CTAS-54

County clerks must receive an annual minimum salary in the amount for a general officer as formulated in T.C.A. § 8-24-102. The county legislative body may increase the salary of general officers above the minimum amount, but may not increase the salary of the county clerk without also increasing the salary of other general officers. The amount due the county clerk as compensation does not vary with the amount of fees collected regardless of whether the salary of the county clerk is paid from the clerk's fee account or from the general fund.

More information on Compensation can be found under the General Information tab for County Offices.

Fee or Non-Fee Office-County Clerk

Reference Number: CTAS-744

The county clerk's interaction with the county legislative body determines whether or not the county clerk maintains a fee account for the payment of the expenses of the office, including the salary of the county clerk. The two methods for accounting for fees and commissions received by the county clerk, the Fee System and the Salary System, are covered under the County Offices General Information tab.

Deputies and Assistants-County Clerk

Reference Number: CTAS-55

The county clerk may receive authority to employ deputies and assistants through a letter of agreement or court order. If the county clerk decides to petition for additional deputies or assistants or additional salary amounts, the petition is filed in the chancery court and the county mayor defends the salary suit. T.C.A. § 8-20-101. Additional information about deputies and assistants is found under the General Information tab for County Offices.

Duties-County Clerk

Reference Number: CTAS-56

The county clerk has numerous duties, including acting as clerk of the county legislative body, issuing motor vehicle titles and registrations, collecting privilege taxes, and overseeing the issuance of beer permits, marriage licenses, and pawnbroker licenses. In addition to these statutory duties, some county clerks also issue certified copies of birth certificates under T.C.A. § 68-3-206, and some county clerks

contract with the department of safety to issue driver licenses under T.C.A. § 55-50-331.

The law regulating the licensing and operations of title pledge lenders is found in Tennessee Title Pledge Act, T.C.A. § 45-15-101 *et seq.*, which was amended in 2005 to transfer responsibility for licensing and regulating title pledge lenders from county clerks to the Tennessee Department of Financial Institutions. This set of statutes is separate from the laws regulating pawnbrokers.

The county clerk was previously responsible for issuing amusement ride permits, but the law was amended in 2008 to transfer this responsibility to the state Department of Commerce And Insurance. T.C.A. § 68-121-101 *et seq.*

Clerk of the County Legislative Body

Reference Number: CTAS-664

The county clerk is the clerk of the county legislative body. T.C.A. §§ 18-6-101; 18-6-104. The clerk keeps the official records of the body, sends required notices, and keeps a record of all appropriations and allowances made and all claims chargeable against the county. The clerk may develop the agenda for the county legislative body meetings.

In addition to keeping the minutes, the County Clerk is required to:

1. Notify each member of a special or called session not less than five days in advance of the meeting T.C.A. § 5-5-105;
2. Present each resolution approved by the county legislative body to the county mayor for signature promptly after the meeting of the county legislative body and report the approval or nonapproval at the next meeting in the reading of the minutes. T.C.A. § 5-6-107;
3. Notify members of vacancies which must be filled by the county legislative body, and record each member's vote to fill the vacancy and enter it in the minutes. T.C.A. § 5-5-111; and
4. Carry out any other duties required by local rules of procedure adopted by resolution of the county legislative body or required by statute.

In instances where no statute or rule of procedure adopted locally addresses a question of parliamentary procedure, many county legislative bodies follow Robert's Rules of Order, a set of procedural rules which may or may not be adopted by the body.

Within almost every county there are three major operating department heads: the county mayor, the chief administrative officer of the Highway Department, and the Director of Schools (under the direction of the Board of Education). Income received and disbursements made by these departments must be authorized by the county legislative body, subject to general and private acts of the legislature and to court decisions. Accordingly, no county funds may be expended unless authorized (generally referred to as "appropriated") by the county legislative body. T.C.A. § 5-9-401.

Appropriations may be made by the county for a number of specifically authorized purposes, or pursuant to the general authorization to appropriate funds for any statutorily authorized purpose. T.C.A. § 5-9-101 *et seq.* The County Clerk keeps a book of appropriations. T.C.A. § 5-9-301. Once an appropriation is made, warrants signed by the appropriate department head (more than one department head may be required) are drawn on the county treasury (trustee).

To learn more about County Clerks serving as the clerk of the County Legislative Body, review the County Legislative Body topic.

Minutes

Reference Number: CTAS-665

It is very important that the minutes of the county commission be accurate, be reviewed, and be formally approved by the county legislative body. The minutes are required to be promptly and fully recorded and open to public inspection in the clerk's office. They must include a record of persons present, all motions, proposals and resolutions offered, the results of any vote taken, and a record of individual votes in the event of roll call. All votes of the County Commission must be public; no secret votes or secret ballots can be taken T.C.A. § 8-44-104. Each member's vote regarding the appointment process shall be recorded by the clerk and entered on the minutes of the county legislative body. T.C.A. § 5-5-111(e). The minutes are the only record of the meeting that will be used if a question arises concerning what happened at the meeting and that will be recognized by a court.

Members of the county legislative body can greatly assist the county clerk in preparation of the minutes

by ensuring that all resolutions are presented in writing. This will ensure that the resolution is recorded in the minutes in the proper format and will speed the process of approving and correcting the minutes. However, resolutions that are not presented in writing will have to be reduced to writing by the county clerk.

The minutes should contain what was done by the body and not necessarily what was said by each member. As a general rule the minutes of the County Commission are written in third person and contain the following information:

1. Date, place, and time of the meeting and whether the meeting was a regular or special meeting.
2. Names of the members in attendance and those not in attendance.
3. Approval or correction of the minutes of the previous meeting.
4. Motions and proposals made, along with amendments, the name of the maker, and the vote on the motions. (Motions withdrawn do not have to be included.)
5. Resolutions adopted in full. Resolutions not presented in writing must be reduced to writing by the County Clerk and included in the minutes.
6. Actual vote of each member on roll call votes and "approved by voice vote" or "disapproved by voice vote" for simple voice vote. A count of the votes should be included when voting is done by a show of hands.
7. Summaries or written reports appended to the minutes for committee reports.
8. Committee appointments, elections to fill vacancies or other appointments, and confirmations of appointments.
9. Any special provision required for compliance, such as a two-thirds vote.
10. A notation if the meeting is also serving as a public hearing on an issue.
11. Any other matter directed by the body to be included in the minutes.
12. Time of adjournment.

The approved minutes should be signed by the chair of the county legislative body and the County Clerk.

Rough minutes should be retained until the actual minutes are approved, and then may be destroyed.

Minutes are kept as permanent records in a minute book which should be well bound and have numbered pages. A method of topical indexing to find minutes of previous meetings should be kept. Under T.C.A. § 10-7-121, the minutes may be maintained in electronic format instead of bound books or paper records, as long as the requirements of that statute are met.

Notary Public Applications

Reference Number: CTAS-666

A notary public is a state official with statewide jurisdiction whose duties are prescribed by statute. Op. Tenn. Att'y Gen. 07-157 (November 26, 2007). However, the county clerk and the county legislative body are involved in the application and approval process for notaries before they are approved by the governor.

Beginning July 1, 2019, a person who has been commissioned as a notary public may apply to the Tennessee secretary of state to be commissioned as an online notary public under the Online Notary Public Act, T.C.A. §§ 8-16-301 *et seq.* The county clerk and the county legislative body are not involved in the commission of online notaries.

For information about how to become a notary as well as duties and fee information, please refer to the Secretary of State's website: [How to become a Notary | Tennessee Secretary of State \(tn.gov\)](https://www.tn.gov)

Qualifications, Election and Powers

Reference Number: CTAS-667

All notaries must be 18 years of age and be either a United States citizen or a legal permanent resident. T.C.A. § 8-16-101. Notaries are elected by the county legislative body in the county in which they reside or have their principal place of business (T.C.A. § 8-16-101), and are approved by the governor. T.C.A. § 8-16-102. A person with a principal place of business in a Tennessee county may be elected a notary in that county even though that person's residence is in another state. T.C.A. § 8-16-101. The same basic disqualifications exist for notaries as for other county offices. T.C.A. § 8-18-101. A notary may be removed from office just as any other official. The notary's term is four (4) years, beginning on the date

of issuance of the commission by the governor T.C.A. § 8-16-103. Renewal is by the same method as the original procedure.

In addition to the qualifications discussed above, an applicant for notary public must certify, under penalty of perjury, that the person (1) has never been removed from office as a notary public for official misconduct, (2) has never had a notarial commission revoked or suspended by this or any other state, and (3) has never been found by a court of his state or any other state to have engaged in the unauthorized practice of law. T.C.A. § 8-16-101.

A fee of twelve dollars (\$12.00) is paid to the county clerk in the county of election for issuance of a commission, (five dollars (\$5.00) to the secretary of state under T.C.A. § 8-21-201 and seven dollars (\$7.00) to the county clerk under T.C.A. §§ 8-16-106 and 8-21-701. The county clerk will certify the election and forward the five dollar (\$5.00) fee to the secretary of state, who, upon receipt of the certificate and the fee, will forward the commission to the county clerk issued by the governor. The county clerk notifies the person to whom the commission was issued, and, after the oath has been taken and bond posted, the county clerk delivers the commission to the person elected. The county clerk receives a fee of two dollars (\$2.00) for taking and recording the official bond under T.C.A. § 8-21-701. The county clerk must keep a record of the issuance and expiration dates of commissions, noting such on the bond and in a minute entry. T.C.A. § 8-16-107.

Notaries are required to live in or have their principal place of business in the county from which they are elected only at the time of their election. If the notary moves to another county, the notary must notify the county clerk in the county from which the notary was elected and pay a fee of seven dollars (\$7.00). The county clerk must notify the secretary of state of the change of address and forward two dollars (\$2.00) of the fee to the secretary of state. The county clerk retains the remaining five dollars (\$5.00). T.C.A. § 8-16-109. If a notary moves out of state, the notary is no longer qualified to act; it is a Class C misdemeanor for a notary to take acknowledgements after moving out of the state. T.C.A. § 8-16-110.

All notaries public are authorized to act in any county in the state and may acknowledge signatures, administer oaths, take depositions, qualify parties in bills in chancery, and take affidavits T.C.A. § 8-16-112. Notaries are entitled to charge reasonable fees for their services, and if a fee is charged the notary must keep a record, either electronically or in a well-bound book, of each of the notary's acts, attestations, protestations, and other instruments of publication. T.C.A. § 8-21-1201.

Notary Public Bonds

Reference Number: CTAS-668

After election by the county legislative body, and before commencing duties or exercising powers, a notary must post bond. T.C.A. § 8-16-104. Bonds are covered in detail under the General Information tab of the County Offices topic.

Oaths-Notary Public

Reference Number: CTAS-669

The notary must take and subscribe to an oath before the County Clerk or a deputy County Clerk to support the Constitutions of the State of Tennessee and the United States and that the notary will, without favor or partiality, honestly, faithfully, and diligently discharge the duties of notary public. T.C.A. § 8-16-105.

Notary Public Seal

Reference Number: CTAS-670

The notary must purchase an official seal. The secretary of state prescribes the design of the seal, which is to be imprinted by a rubber or other type stamp in any color other than black or yellow as long as it is clearly legible and appears black on a non-color copier; however, the law provides that a document will not be invalid nor will there be any criminal or civil liability if a notary uses the wrong color ink. Also, the use of an embossed notary seal after May 12, 2003, does not render an acknowledgment defective. The seal must be surrendered to the county legislative body upon expiration of the notary's term of office or resignation and the personal representative must surrender the seal in the event of the death of the notary. T.C.A. § 8-16-114. The current design prescribed by the Secretary of State is circular, and has the notary's name (as commissioned) printed at the top, the county of election at the bottom, and State of Tennessee Notary Public in the center. The county clerk may obtain the official seal for the notary public at the notary's request. For providing this service the county clerk may charge a fee not exceeding twenty percent (20%) of the cost of the seal. T.C.A. § 8-16-114.

Statutory Form Acknowledgment

Reference Number: CTAS-671

Statutory forms for acknowledgment of instruments are set out in T.C.A. § 66-22-107 (for natural persons) and T.C.A. § 66-22-108 (for partnerships and corporations) and T.C.A. § 66-22-114 (another general form). A basic form for acknowledgment of instruments signed by a natural person is as follows T.C.A. § 66-22-107:

State of _____

County of _____

Personally appeared before me, [name of officer], [official capacity of officer], [name of the natural person executing the instrument], the within named bargainer, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the within instrument for the purposes therein contained.

Witness my hand, at office, this ____ day of _____, 20__.

Although the exact language of the forms is recommended, acknowledgments complying with the substance thereof are valid. T.C.A. § 66-22-114.

In using the above quoted forms, the notary should make certain the proper pronoun, he, she, they, etc., is used. So far as possible, there should be no changes or alterations in the body of the acknowledgment; but should they be required, the notary should initial such changes wherever they appear.

The expiration date of the notary's commission must appear on every certificate of acknowledgment. However, failure to include the expiration date does not invalidate the instrument. T.C.A. § 8-16-115.

Notary Public Fees

Reference Number: CTAS-2203

Under T.C.A. § 8-21-1201, a notary public or the notary's employer may charge reasonable fees and compensation for the notary's services. If a fee is charged, the notary must keep a record either electronically or in a well-bound book of each action. If a separate fee is not charged for the notary's services, the notary is not required to keep a record of the action.

Records-County Clerk

Reference Number: CTAS-672

The county clerk serves as the custodian of a wide variety of records which are required to be filed and maintained in the office of the county clerk. Some of these documents are required to be filed and maintained in the office of the county clerk so that members of the public may verify certain information of public concern. The maintenance of these records is one of the most important duties of the county clerk, as the county clerk's office serves as one of the information centers for the county. Some of the many records maintained in the office of the county clerk are discussed below.

In all national, state, and most local elections, the County Election Commission files one copy of its certificate of election returns in the office of the county clerk immediately after the election. The county clerk must provide a receipt acknowledging that the documents have been filed in the county clerk's office. T.C.A. § 2-8-106.

After an election to abolish a city charter, if the majority of voters approve "no charter" the election commissioners are required to make triplicate certificates of the election, filing one with the original petition with the county clerk. When all certificates have been duly filed, the corporation becomes extinct. If the majority votes for the "charter," the commissioners make only one return which is filed with the county clerk with the original petition to abolish the charter. T.C.A. § 6-52-205.

Copies of a proposed metropolitan charter are filed by the charter commission with the county clerk and other designated officials. The proposed charter must be open to public inspection by any interested person. T.C.A. § 7-2-105. The election returns are sent by the election commission to the Secretary of State, who issues a proclamation of the adoption or rejection of the proposal. One copy is sent to the county clerk who attaches it to the copy of the proposed charter. If the charter was adopted, the clerk delivers the county clerk's copy of the charter and proclamation to the officer of the new government as the charter may direct. T.C.A. § 7-2-106.

Before a local bar association can receive a copy of each year's acts of the General Assembly for its library, the county clerk must certify the name and address of the association to the Secretary of State.

In the event the association ceases to exist or to maintain a law library, all copies of the acts are to be turned over to the county clerk. T.C.A. § 12-6-102.

Pedigree books are maintained by the county clerk for registering the pedigree of jacks or bulls used for public breeding. The registrant makes an oath that the pedigree is genuine. T.C.A. § 44-7-301.

County indigent institution records of vouchers for expenditures and books of accounts are examined by the county mayor at the end of each year. If the vouchers are approved, they are filed in the county clerk's office and preserved in separate files. T.C.A. § 71-5-2208.

Counties are authorized to make appropriations to assist charities. Any charity desiring financial assistance must file an annual report, including a copy of its annual audit, its program which serves the residents of the county, and the proposed use of the county assistance, with the county clerk. Instead of the annual audit, the organization may file an annual report detailing all receipts and expenditures. The report must be prepared and certified by the chief financial officer of the organization. T.C.A. § 5-9-109.

General contractors are no longer required to record their licenses in the office of the county clerk, but the county clerk can obtain a roster of licensed contractors from the state board of licensing contractors by requesting the same in writing. T.C.A. § 62-6-110. Veterinarians also are no longer required to record their licenses in the county clerk's office. T.C.A. § 63-12-118, repealed. The requirement that real estate brokers file a bond with the county clerk has also been repealed. T.C.A. § 62-13-306, repealed. The former duties of the county clerk in filing contractors' bonds to discharge mechanics' and materialmen's liens were transferred to the register of deeds effective in 1994. T.C.A. § 66-11-142.

County clerks are required to index the records in their offices, and to cross-index records pertaining to more than one party. T.C.A. § 10-7-201. Records must be open to public inspection during business hours (T.C.A. § 10-7-503), and copies may be made of any public record. T.C.A. § 10-7-506.

The county legislative body is authorized to have the record books of the county clerk rebound in order to preserve them and keep them in proper condition. T.C.A. § 10-7-119. During the rebinding of these records, the liability of the county clerk on his or her official bond for the proper safekeeping of such books is suspended. T.C.A. § 10-7-120.

Public Records

Reference Number: CTAS-673

All county records, including those in the county clerk's office, must be open for personal inspection by any citizen of Tennessee during business hours of the office. County officials in charge of these records may not refuse the right of any citizen to inspect them unless another statute specifically provides otherwise or they are included in the list of specific records that are to be kept confidential under T.C.A. § 10-7-504 or some other legal authority. Information made confidential by statute must be redacted whenever possible. If it is not practicable for a requested record to be promptly made available for inspection, the records custodian must, within seven (7) business days, either: (i) make the record available; (ii) deny the request in writing stating the basis for the denial; or (iii) furnish the requestor a response form stating the time reasonably necessary to produce such record. T.C.A. § 10-7-503.

The state's Office of Open Records Counsel, created in 2008, was charged with developing a schedule of reasonable charges which may be used as a guideline in establishing charges or fees, if any, to charge a citizen requesting copies of public records. The Office of Open Records Counsel issued its Schedule of Reasonable Charges for Copies of Public Records in October 2008. Records custodians are authorized to charge reasonable costs consistent with the schedule. T.C.A. § 10-7-503. The schedule, together with instructions for records custodians, can be found on the website of the Office of Open Records Counsel.

Charges established under separate legal authority are not governed by the schedule, and are not to be added to or combined with charges authorized under the schedule. Questions regarding the schedule should be directed to the *Office of Open Records Counsel*.

A citizen denied access to a public record is entitled to file a petition for inspection in the circuit court or the chancery court of the county in which the records are located, or in any other court of that county having equity jurisdiction. The county official denying access to the record has the burden of proof to justify the reason for nondisclosure. If the court directs disclosure, the county official shall not be held criminally or civilly liable for the release of the records, nor shall he or she be responsible for any damages caused by the release of the information. If the refusal to disclose the record is willful, the court may assess all reasonable costs involved in obtaining the record, including reasonable attorneys' fees, against the county official. T.C.A. § 10-7-505.

In addition to creating a schedule of charges for records requests, the Office of Open Records Counsel has been charged with the duty to answer questions and issue advisory opinions to public officials regarding

public records. T.C.A. § 8-4-601. This office should be a valuable resource for questions on open records.

Confidential Tax Information

Reference Number: CTAS-674

There are specific statutes requiring confidentiality of state tax information. The general statute (T.C.A. § 67-1-1702(a)) provides:

Notwithstanding any law to the contrary, returns, tax information and tax administration information shall be confidential and, except as authorized by this part, no officer or employee of the department or of any office of a district attorney general or any state or local law enforcement agency, and no other person, or officer or employee of the state, who has or had access to such information shall disclose any such information obtained by such officer or employee in any manner in connection with such officer's or employee's service as an officer or employee, or obtained pursuant to this part, or obtained otherwise.

Violation of this confidentiality statute is a criminal offense.

Because the statute makes reference to "tax information" and "returns" which are defined with reference to taxes collected by or on behalf of the state (T.C.A. § 67-1-1701), there has been confusion over the release of tax information which is purely local, such as hotel/motel tax. The Tennessee Attorney General had issued an opinion that information regarding local hotel/motel taxes was subject to the state confidentiality statute (Attorney General Opinion No. U94-059 dated March 24, 1994), but T.C.A. § 67-1-1702 was amended in 2016 to state that these confidentiality provisions (T.C.A. § 67-1-1701 *et seq.*) do not apply to hotel/motel taxes. Accordingly, hotel/motel tax records are no longer confidential.

In addition to the general statute, business tax returns, statements, reports, and audits of the taxpayer's records are confidential and cannot be disclosed except to the taxpayer, the taxpayer's attorney, or an authorized governmental entity (T.C.A. § 67-4-722), but the name and address of any present or former business owner as appearing on a business license or application therefor is expressly declared to be a public record and not confidential. T.C.A. § 67-4-722.

Uniform Motor Vehicle Records Disclosure Act

Reference Number: CTAS-675

Personal information obtained in connection with motor vehicle records is declared confidential and cannot be disclosed except under specified circumstances. "Personal information" is defined as information that identifies a person, and includes an individual's photograph, computerized image, social security number, driver identification number, name, address (but not the five-digit zip code), telephone number, and medical or disability information, but it does not include information on vehicular accidents, driving or equipment-related violations, or driver license or registration status. T.C.A. § 55-25-103. Personal information may be disclosed only under the following circumstances:

1. For safety, environmental and federal compliance purposes, as provided in T.C.A. § 55-25-105.
2. With the written consent of the person who is the subject of the information. T.C.A. § 55-25-106.
3. For use by a government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions. T.C.A. § 55-25-107.
4. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles, parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers. T.C.A. § 55-25-107.
5. For use in the normal course of business by a legitimate business, but only to verify the accuracy of personal information submitted by an individual to the business, and if the information submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against the individual. T.C.A. § 55-25-107.
6. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including service of

- process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to a court order. T.C.A. § 55-25-107.
7. For use in research activities, and for use in producing statistical reports, so long as the information is not published, redisclosed or used to contact individuals. T.C.A. § 55-25-107.
 8. For use by any insurer or insurance support organization, or by a self-insured entity, its agents, employees or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting. T.C.A. § 55-25-107.
 9. For use in providing notice to owners of towed or impounded vehicles. T.C.A. § 55-25-107.
 10. For use by any private investigative agency or licensed security service for any permitted purpose. T.C.A. § 55-25-107.
 11. For use by any employer or its agent or insurer to obtain or verify information relating to the holder of a commercial driver license that is required under the Commercial Motor Vehicle Safety Act of 1986. T.C.A. § 55-25-107.
 12. In connection with the operation of private toll transportation facilities. T.C.A. § 55-25-107.
 13. For any other use in response to requests for individual motor vehicle records if the state has obtained the express consent of the person to whom the personal information pertains. T.C.A. § 55-25-107.
 14. For bulk distribution for surveys, marketing or solicitation in accordance with procedures adopted by the department, after persons have been given an opportunity to prohibit such disclosure. T.C.A. § 55-25-107.
 15. By any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains. T.C.A. § 55-25-107.
 16. For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety. T.C.A. § 55-25-107.

Personal information may be disclosed to any requesting person, regardless of intended use, if the forms for issuance or renewal of licenses, registrations, titles or identification documents contain a conspicuous notice that the personal information may be disclosed to any person making a request for the information, and provide in a clear and conspicuous manner a method for the applicant to prohibit such disclosure. T.C.A. § 55-25-106. Thus, as long as the forms contain the proper disclosure information, it will be the applicant's responsibility to take action to prohibit disclosure of his or her personal information. Otherwise, the information may be disclosed.

The Department of Safety is authorized to require the requesting person to meet certain conditions relative to the identity of the person, and if relevant, the authorized use of the information, or the consent of the subject. The conditions may include the filing of a written application containing such information and certification requirements as the department may prescribe. T.C.A. § 55-25-109. Anyone who misrepresents his or her identity or makes a false statement in connection with the request for disclosure of personal information is guilty of a Class C misdemeanor, punishable by a fine up to \$1,000. T.C.A. § 55-25-112.

Persons who obtain personal information are limited in their ability to resell or redisclose that information as provided in T.C.A. § 55-25-107, and are required to keep records of the information obtained and the permitted use for which it was obtained for a period of five years. These requirements do not apply, however, if the person who is the subject of the disclosure has not taken action to prohibit disclosure after having been given the opportunity to do so. T.C.A. § 55-25-107.

The department and the county clerk are authorized to charge a reasonable fee not over one dollar (\$1.00) for each person on whom information is requested. T.C.A. § 55-2-106.

Confidential Employee Records

Reference Number: CTAS-676

For county governments, one important class of confidential records involves personal information of state, county, municipal, and other public employees. An employee's, including a former employee's, home telephone and personal cell phone numbers, bank account information, health savings account information, retirement account information, pension account information, social security number, residential address, driver's license information (except where driving is a part of the employee's job), emergency contact information, and similar information for the employee's family and household members are confidential. Where this confidential information is part of a file or document that would otherwise be public information, such information shall be redacted if possible so that the public may still have access

to the non-confidential portion of the file or document. T.C.A. § 10-7-504. The information made confidential under this statute is to be redacted whenever possible so that it does not limit the public's access to other information which is not confidential.

Records on Computer Media

Reference Number: CTAS-677

The county clerk and other governmental officials are authorized to maintain on a computer any information required to be kept as a record, instead of maintaining bound books or paper records, but only if certain standards are met. The standards for maintaining records on computer media are (T.C.A. § 10-7-121):

1. The information must be available for public inspection, unless it is a confidential record according to law;
2. Due care must be taken to maintain the information that is a public record during the time required for retention;
3. All daily information generated and stored in the computer must be copied daily to computer storage media, and all copied storage media over one week old must be stored at another location; and
4. The official must be able to provide a paper copy of the information when needed or when requested by a member of the public.

Also, upon the promulgation of proper rules by the secretary of state, county officers may destroy or archive elsewhere, as appropriate, original paper records upon reproduction onto computer storage media, or in any appropriate electronic medium, after following certain procedures and standards and having the destruction or record transfer approved by the County Public Records Commission and the State Library and Archives. T.C.A. § 10-7-404.

Effective in 2008, all municipalities and counties must create safeguards and procedures for ensuring that confidential information regarding citizens is securely protected on all laptop computers and other removable storage devices used by such municipality or county. Failure to comply creates a cause of action or claim for damages against the municipality or county if a citizen of this state proves by clear and convincing evidence that such citizen was a victim of identity theft due to a failure to provide safeguards and procedures regarding that citizen's confidential information. T.C.A. § 47-18-2901.

Storage and Disposition of Records

Reference Number: CTAS-678

A large number of records are required to be maintained by the county clerk. Storage problems usually occur which require the county clerk to seek a method to dispose of old and obsolete records. Since many of the records maintained by the county clerk are historically significant, great care must be taken in the storage and/or disposition of old or less frequently utilized records.

Recognizing the problems that counties encounter with records disposition, the General Assembly created a statutory framework for the storage or disposition of county records T.C.A. § 10-7-401 *et seq.* Each county is required to establish a County Public Records Commission to oversee the storage or disposal process. The county clerk serves as a member of the Commission. T.C.A. § 10-7-401. Original permanent records which have been reproduced or microfilmed cannot be legally destroyed without approval of the Commission. T.C.A. § 10-7-404. See Retention Schedules for county clerks.

Archives and Records Management Fee

Reference Number: CTAS-679

All counties with a County Public Records Commission are authorized to establish by resolution of the county legislative body, and collect through all entities creating public records (except the register of deeds and court clerks) an archives and records management fee of up to five dollars (\$5.00) per document filed. The county is authorized to collect an archives and records management fee of up to five dollars (\$5.00) through court clerks on documents filed with the clerk for the purpose of initiating a legal proceeding. Monies collected through these fees must be designated exclusively for duplicating, storing, and maintaining any records required by law to be kept permanently. T.C.A. § 10-7-408.

Privilege Taxes

Reference Number: CTAS-680

The county clerk serves as the collector of certain privilege taxes imposed by the state, county or municipality on merchants, persons, companies, firms, corporations or agents, unless otherwise provided by law. T.C.A. § 67-4-103. In addition to the privilege taxes on marriage, privilege taxes which may be collected by the county clerk include the annual privilege tax on the business of selling, distributing, storing or manufacturing beer (T.C.A. § 57-5-104), the county motor vehicle privilege tax (T.C.A. § 5-8-102), and county hotel/motel taxes. The county clerk also issues business licenses and collects the \$15 fee (T.C.A. § 67-4-723), and collects the privilege tax on transient vendors, including antique malls, flea markets, antique shows, craft shows, gun shows, and auto shows (T.C.A. § 67-4-710); however, business taxes are collected by the state department of revenue.

There are several methods for levying privilege taxes. For example, the county motor vehicle privilege tax (wheel tax) can be levied by private act, by referendum approved by resolution of the county legislative body, or by passage of a resolution of the county legislative body by a two-thirds (2/3) vote at two (2) consecutive meetings (with the potential for a referendum upon petition of the voters). T.C.A. § 5-8-102. Hotel/motel taxes are levied by private act of the General Assembly, with a few exceptions. Some privilege taxes are levied under general law, such as the annual beer tax under T.C.A. § 57-5-104. Each tax usually contains provisions for collection of that tax and mechanisms for collecting delinquent taxes. General law provisions for collection of privilege taxes may also apply.

The county clerk collects all taxes on merchants, persons, companies, firms, corporations, agents, or traders, and all privileges, unless otherwise provided by law. T.C.A. § 67-4-103. Licenses for exercising all privileges for which specific license provisions are not otherwise made are to be issued when the applicant pays to the county clerk the appropriate taxes and fees for the exercise of the privilege. T.C.A. § 67-4-104. The person, partnership, or corporation is required to complete an application signed by all owners, and the application is retained in a book maintained by the county clerk for public inspection. No license may be issued until such an application is completed and delivered to the county clerk. T.C.A. § 67-4-105. The county clerk can issue licenses quarterly, unless the term of the license is provided for in the legislation authorizing the privilege tax. T.C.A. § 67-4-104. At the time the license is issued, all privilege taxes must be paid to the county clerk, and the county clerk is subject to certain fines and penalties for failing to pay these taxes over to the commissioner of revenue, county trustee, or municipal authorities, as appropriate. T.C.A. § 67-4-103. Certain persons are exempt from paying privilege taxes on selling taxable articles, including indigent persons, certain agricultural association business agents, and blind persons who have received an exemption from the county legislative body. T.C.A. § 67-4-102.

The assessor is required to notify the county clerk of all persons engaged in business in any way liable for the payment of privilege taxes and the county clerk and the county mayor are to compare the list of names provided by the assessor with the list of persons paying privilege taxes, and report the result to the county legislative body at the July meeting, at which time the list is to be read and entered into the minutes. T.C.A. § 67-4-108. If any person sells goods or exercises any privilege without obtaining a required license, the county clerk is directed to issue distress warrants to the sheriff requiring the sheriff to levy a tax in double the amount of the highest tax imposed upon such privilege, plus costs and commission, by seizing and selling the property of the taxpayer; in the alternative, suit may be brought in circuit or chancery court for such double tax. T.C.A. § 67-4-109. Also, if the taxpayer is required to post a bond, the county clerk is required to turn over such bonds to the county attorney within thirty (30) days after the bond is due and payable, and notify the Commissioner of Revenue and the county legislative body that such bonds were turned over for collection. T.C.A. § 67-4-112.

The statute of limitations for collection of state, county, and municipal privilege taxes collected by the county clerk is six years, after which time collection is barred. This six-year period commences on January 1 of the year in which the taxes were to be paid by the taxpayer. T.C.A. § 67-1-1501.

Motor Vehicle Titling and Registration

Reference Number: CTAS-681

The county clerk, as agent for the State Department of Revenue's Vehicle Services Division, has very important duties with regard to the titling and registration of motor vehicles, motorized bicycles, trailers or semi-trailers when moved or driven on the highways of this state, and titling of certain mobile homes/ manufactured homes. These matters are covered in materials provided by the Tennessee Department of Revenue.

2021 Precious Cargo Act — Effective January 1, 2022, Public Chapter 55, known as the "2021 Precious Cargo Act" empowers citizens with an intellectual disability, developmental disability, or a medical condition, that may impede communications to law enforcement and first responders during a traffic stop or welfare check, to request the department include a designation of the need for assistance in the Tennessee Vehicle Title and Registration System (VTRS) database. Citizens must request the designation

with the initial application to register the motor vehicle or upon renewal. The request must be accompanied by a written statement from a licensed physician, psychiatrist, psychologist, senior psychological examiner, or neurologist, stating that the operator of the vehicle has a disability or condition that may impede communications with law enforcement or first responders. See Title 55, Chapter 21 of the Tennessee Code Annotated.

The information submitted to the department must be provided to law enforcement and only be used to help ensure safe and efficient interaction with law enforcement and the person with a disability or medical condition. Title 55, Chapter 21 of the Tennessee Code Annotated.

Mail Orders of Plates and Decals — The county clerk provides a mail order service for the renewals of registrations. Registrants may apply for and receive renewal plates or decals through the United States postal service. Each county clerk may impose a fee of \$5.00 for plates and \$2.00 for decals for the service and handling mail orders. Each county clerk may increase the fees provided above in an amount not to exceed an applicable United States postal service price increase in a given year. T.C.A. § 55-4-105.

Manufactured Homes

Reference Number: CTAS-682

A "manufactured home" is defined as a structure which is transportable in one or more sections and which, in the traveling mode, is at least eight feet in width and at least forty (40) feet in length, or when erected on site is at least three hundred twenty (320) square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems; a manufactured home also may be any structure that meets all of the foregoing requirements except size, and which the manufacturer has voluntarily filed a certification with the Department of Housing and Urban Development and complies with the standards of that agency. Manufactured homes are sometimes referred to as mobile homes or house trailers. T.C.A. § 55-1-105.

Titling of Manufactured Homes

Reference Number: CTAS-683

The ownership of a manufactured home is legally recorded by either obtaining a certificate of title from the county clerk or by filing an affidavit of affixation with the register of deeds. These types of structures generally are considered personal property and are titled in a manner similar to motor vehicles by certificate of title, but under certain circumstances these structures may be so permanently affixed to the land that they become more like a house, and ownership is recorded in the real property records. Whether the structure is considered personal property or real property is important to lenders trying to perfect a security interest in these structures. The distinction is also important for bankruptcy law purposes, because a debtor in bankruptcy is allowed certain preferences with regard to real property that is the debtor's principal residence.

Affidavit of Affixation

Reference Number: CTAS-684

When the real estate and the manufactured home are owned by the same owner(s), and the manufactured home is affixed to the real estate, the owner(s) may record an Affidavit of Affixation. T.C.A. § 55-3-128. The recording of an Affidavit of Affixation in the register of deeds' office will be prima facie evidence that the manufactured home is affixed to real property as an improvement to the property, so that lenders will be able to rely on the affidavit to file and properly perfect their liens, and bankruptcy judges may rely on the affidavit in connection with determining whether a manufactured home qualifies as a principal residence. This also means that the manufactured home is to be taxed as part of the real property to which it is affixed, so the assessor of property will need to know when these affidavits are filed so that the property may be added to the county's tax rolls.

The Affidavit of Affixation is required to be substantially in the form set out in T.C.A. § 55-3-128. The owner of the manufactured home and real property must answer the questions listed on the affidavit under oath, and then file the completed affidavit in the office of the register of deeds. The register records the instrument with the real estate records after receiving the proper fees. A copy of the affidavit also must be filed with the assessor of property.

The Affidavit of Affixation is to be used only when the owner of the manufactured home also owns the real estate to which the home is affixed. If the land is owned by someone other than the owner of the manufactured home, a certificate of title must be obtained regardless of whether the home is affixed to

the land.

Certificate of Title

Reference Number: CTAS-685

Manufactured homes which are not affixed to land, and those which are affixed to land owned by someone other than the owner of the manufactured home, are issued certificates of title. For manufactured homes that are affixed to the owner's land and for which an Affidavit of Affixation has been recorded, no certificate of title is necessary. For example, it is not necessary to issue a certificate of title for a new manufactured home purchased by a land owner to be affixed to that land if the owner is filing an Affidavit of Affixation with the register of deeds.

If a manufactured home is affixed to a parcel of real property with the same owner, upon filing an Affidavit of Affixation the owner is required to surrender the title for cancellation by providing the following documentation to the county clerk:

1. The certificate(s) of title to the manufactured home duly endorsed to show release of any lienholders; or if the manufactured home is new, the manufacturer's statement or certificate of origin; or if the manufactured home is not covered by a certificate of title and the owner is unable to produce the manufacturer's certificate of origin, a statement to that effect in the Affidavit of Affixation;
2. A certified copy of the deed to the real property to which the manufactured home has been affixed as recorded in the register's office; and
3. A certified copy of the Affidavit of Affixation recorded in the register's office.

T.C.A. § 55-3-128.

No fee is provided in the statute for either the county clerk or the state for the surrender of the certificate of title.

The surrender of the certificate of title is mandatory. The owner cannot continue to hold a certificate of title for the manufactured home after filing an Affidavit of Affixation with the register.

If the owner of a manufactured home who has surrendered the certificate of title later wants to have the title reissued (which may happen if the owner sells the manufactured home without selling the real property), this may be done by applying for a new certificate of title with the county clerk and providing the following:

1. An abstract of title showing legal ownership of the manufactured home and real property and any mortgages recorded on the real property;
2. For every lienholder shown on the title abstract, either a release of the lien or a lienor's statement that the lien is to be recorded on the certificate of title; and
3. Payment of the required fees for issuance of the certificate of title.

T.C.A. § 55-3-129.

Installation Permits

Reference Number: CTAS-686

County clerks are responsible for selling installation permits to licensed installers of manufactured homes. Under T.C.A. § 68-126-406, prior to installing a manufactured home an installer must obtain a permit and pay an inspection fee of forty-five dollars (\$45.00). A permit is required for each installation. The permit is purchased from the county clerk of any county by paying the inspection fee. The county clerk issues a permit decal which must be placed on the electrical panel box cover of the manufactured home. The installer must write the address of the home on the permit, and the electrical inspector cannot authorize the electricity to be turned on at the home if no installation permit decal is present.

Of the \$45.00 fee, the county clerk retains eight dollars (\$8.00) and remits thirty-seven dollars (\$37.00) to the commissioner of commerce and insurance (to be used to defray inspection costs) on a monthly basis, no later than the twentieth (20th) day of the month following the month in which the fee is paid, with a report showing the license numbers of the installers and retailers who purchase permits and the corresponding permit numbers sold. The decals are furnished to the county clerks by the commissioner. County clerks are required to account for each permit decal issued.

If a permit is lost or destroyed, the county clerk may issue a replacement decal upon payment of an additional forty-five dollars (\$45.00) and submission of an affidavit stating that the decal was lost or destroyed. The county clerk retains eight dollars (\$8.00) and remits a copy of the affidavit and

thirty-seven dollars (\$37.00) to the commissioner of commerce and insurance with the monthly report.

Inspections are handled by the Department of Commerce and Insurance, as is licensing of installers and retailers of manufactured homes. The responsibilities of the county clerk are limited to selling installation permits, collecting the inspection fees, and filing reports and remitting fees monthly to the commissioner of commerce and insurance.

Miscellaneous Powers and Duties of the County Clerk

Reference Number: CTAS-687

The county clerk has many miscellaneous powers and duties which he or she is authorized or required to perform by various statutes. These powers and duties include such varied tasks as serving as the clerk of drainage districts, taking depositions, and issuing copies of birth certificates.

Drainage and Levee Districts

Reference Number: CTAS-688

The county clerk has numerous responsibilities with regard to drainage or levee districts located in the county. The county clerk receives petitions for the establishment of drainage and levee districts, and approves and determines the amount of the bond which is filed with the county clerk at the time of the filing of the petition to secure the cost of establishing the drainage and levee district. T.C.A. § 69-5-103. In counties where a district is sought to be established, the county clerk maintains a book known as the "drainage record" of all proceedings involving the creation and operation of the drainage district (T.C.A. § 69-5-140), prepares the assessment rolls for use by the county trustee in collecting drainage assessments to finance construction by a drainage district (T.C.A. §§ 69-5-110; 69-5-111; 69-5-127; 69-5-128), prepares and maintains the "drainage assessment book" showing all parcels of land affected by the drainage district upon which a drainage assessment is made and provides a copy of this book to the county trustee (T.C.A. § 69-5-813), and also advises the trustee of changes in ownership of said parcels of land. T.C.A. § 69-5-815.

The county clerk receives from the county trustee the assessments for drainage and levee districts collected by the trustee and pays the expenses of the drainage and levee district as approved by the county legislative body. T.C.A. §§ 69-5-127; 69-5-804. The county clerk is required to post a bond for double the amount received from the county trustee prior to receiving said funds from the trustee. T.C.A. §§ 69-5-113; 69-5-130; 69-5-805. Also, the county clerk receives claims of persons claiming damages incurred in the construction of a drainage district (T.C.A. § 69-5-201), receives reports and drawings of engineers designated to perform work for such districts (T.C.A. § 69-5-115), serves notice upon persons whose land is within the scope of a proposed drainage district (T.C.A. § 69-5-120), receives the bond of engineers employed to supervise construction of drainage or levee improvements (T.C.A. § 69-5-708), and receives monthly reports of engineers responsible for supervising construction of levee and water work improvements. T.C.A. § 69-5-709. If bonds are sold to finance a district, the county clerk may receive the full assessment from any property owner prior to the bonds being issued (T.C.A. § 69-5-902), and countersigns any bonds issued by such a district. T.C.A. § 69-5-903.

The county clerk is authorized to collect fees for performing these duties in the same amount as authorized for similar services, or additional amounts for extra services or for services not covered by existing fee statutes as authorized by the county legislative body. T.C.A. § 69-5-141.

The county clerk also receives petitions for the creation of watershed districts (T.C.A. § 69-6-103), but may not collect any fees for the filing of such petitions or any other services required under the laws governing watershed districts. T.C.A. § 69-6-115.

Hunting and Fishing Licenses

Reference Number: CTAS-689

The county clerk may act as an agent for the Tennessee Wildlife Resources Agency (TWRA) for purposes of issuing hunting, fishing, and other licenses and collecting the appropriate fees. T.C.A. § 70-2-106.

County clerks who are authorized agents of TWRA may be required to post a bond in an amount determined by the TWRA executive director. T.C.A. § 70-2-106. The executive director is required to deliver blank licenses to the county clerk at least ten days prior to March 1 of each year, and charge the clerk with the number issued to him or her. T.C.A. § 70-2-105. The clerk may charge a flat fee of one dollar (\$1.00) on any one annual license, permit or stamp issued by the clerk and fifty cents (50¢) on any one license, permit or stamp which is valid for a specified day or number of days. T.C.A. § 70-2-106.

The county clerk must maintain all funds collected on behalf of TWRA in a checking account available for

electronic transfer within 24 hours. The penalty for failure to make the required remittance available is five percent (5%) of all funds owing and not remitted within the time prescribed. Also, the county clerk may forfeit the privilege to sell licenses in the future until a full and final settlement has been made. T.C.A. § 70-2-105.

The license or permit must be filled out in ink, indelible pencil, typewriter, punched or stamped or otherwise marked to prevent erasure. T.C.A. §§ 70-2-201; 70-2-202. All licenses and permits are dated the true date of issue, except that annual sport licenses are issued for the year beginning March 1 and ending the last day of February of the next year. T.C.A. § 70-2-107. Any person who violates the licensing or permitting requirements will be guilty of a Class C misdemeanor. T.C.A. § 70-2-107.

The rules and regulations governing the issuance of these permits and licenses are governed by state law and TWRA regulations. The county clerk should follow all guidance issued by TWRA with regard to issuance of the licenses and permits, including the appropriate fees.

Boat Identification Numbers

Reference Number: CTAS-690

The Tennessee Wildlife Resources Agency (TWRA) issues certificates of number for boats. The TWRA also may authorize the county clerk to issue certificates of number for boats. The TWRA issues to the county clerk, a block of numbers and certificates, and upon issuance, the county clerk is entitled to a fee of twenty-five cents (25¢) for each certificate issued. All registration monies, except the twenty-five cents (25¢) fee allowed, must be remitted monthly to the Tennessee Wildlife Resources Commission, on or before the 10th of each month. T.C.A. § 69-9-208.

All vessels propelled by sail or machinery, or both, on the waters of Tennessee are required to be numbered, except those set out in T.C.A. § 69-9-206:

1. A vessel with a valid document issued by the United States Bureau Of Customs or any successor federal agency must be registered with the TWRA but is not required to display numbers;
2. A vessel with a valid number issued by pursuant to federal law or a federally-approved numbering system of another state, unless Tennessee has become the state of principal use and the vessel has been in this state for more than sixty (60) days;
3. A vessel from another country temporarily using the waters of this state;
4. A vessel used in public service and owner by the United States government or a state or political subdivision thereof;
5. A ship's lifeboat;
6. A motorboat belonging to a class of boats which has been exempted by the Tennessee Wildlife Resources Commission;
7. A vessel owned by a volunteer rescue squad and used solely for emergency or rescue work.

All exempt vessels must prominently display identification by name on the vessel. T.C.A. § 69-9-206. A violation of the boat registration laws is a Class C misdemeanor. T.C.A. § 69-9-219.

Certificates are valid for one (1) year, or upon application of the owner, up to three (3) years. The fees for certificates of number are set out in T.C.A. § 69-9-207.

The Tennessee Wildlife Resources Commission issues rules and regulations governing the numbering of boats, including regulations for the issuance of special registration numbers for use by boat manufacturers and dealers for demonstration and transportation purposes, and the issuance of special numbers to the owners of fleets of boats for hire or rent. T.C.A. § 69-9-209.

Boat Trailer Registration

Reference Number: CTAS-2475

Under T.C.A. § 55-4-226, manufacturers and dealers or persons and businesses that transport boats for hire may operate a boat trailer without registering it if the boat trailer operates solely for the purpose of delivery of a boat to a customer, and the boat trailer displays special purpose boat transport plates. A boat manufacture, dealer, person, or business who operates a boat trailer for hire to deliver boats may apply with any county clerk for one or more special purpose boat transport plates. The fee for the first plate is \$47.30, and the fee for any additional plates is \$23.55. The special purpose boat transport plates expire May 31 of each year. Issuance of plates begins each year on May 1, upon payment of the fee and proof that the applicant is still engaged in the business of transporting boats for hire. No business license

is required as proof that a person or business transports boats for hire.

Acknowledgment of Instruments, Affidavits, and Administration of Oaths

Reference Number: CTAS-691

The county clerk and deputy county clerks are authorized to take acknowledgments of instruments within the state under T.C.A. § 66-22-102. The clerk is entitled to the fee provided in T.C.A. § 8-21-701 for this service.

County clerks are also authorized under T.C.A. § 18-6-114 to take affidavits and administer oaths using their official seals, to the same extent as general sessions judges and notaries public. For this service, the county clerk is entitled to receive a fee of twenty-five cents (25¢).

Other Powers and Duties

Reference Number: CTAS-692

A few county clerks act as the clerk of the probate court and/or juvenile court. Although most county clerks are no longer clerks of court, county clerks are authorized and empowered to take depositions in any legal proceeding or to take affidavits and administer oaths for general purposes to the same extent and in the same manner as notaries public. T.C.A. §§ 18-6-113; 18-6-114.

The county road list, which is approved by the county legislative body each year, is entered of record in the office of the county clerk in a book kept for that purpose. T.C.A. § 54-10-103.

County personnel policies are also filed in the office of the county clerk as a record of the base personnel policies in effect in each county office. T.C.A. § 5-23-101 *et seq.*

County clerks may, but are not required to, participate in a pilot program with the state department of health to issue certified copies of birth certificates to walk-in customers under T.C.A. § 68-3-206.

County clerks are authorized, but not required, to contract with the department of safety to issue driver licenses under T.C.A. § 55-50-331.

County clerks are required to verify that anyone conducting a motor vehicle race in the county has the required insurance under T.C.A. § 55-22-101. For additional information, see Motor Vehicle Races.

County clerks issue permits to transitory vendors under T.C.A. § 62-30-101 *et seq.*, and collect a fee of \$50.00 for issuance of the mobile vendor permit to the transitory vendor.

Denial of Licenses for Failure to Pay Child Support

Reference Number: CTAS-693

State law provides for denial or revocation of licenses for failure to pay child support, including licenses, certifications, registrations, permits, approvals and similar documents that grant authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, and to operate motor vehicles or other conveyances, but not licenses to practice law unless guidelines are established by the Supreme Court. T.C.A. § 36-5-701 *et seq.*

When records of the court clerk or Department of Human Services ("DHS") show that child support payments have become delinquent, DHS is authorized to serve notice upon the obligor of the department's intent to notify licensing authorities that the person is not in compliance with the order of support. The person is entitled to request an administrative hearing with DHS or make arrangements to correct the delinquency, and to judicial review of the department's decision. If the person does not comply with the order, request a hearing, or make arrangements to pay within twenty (20) days of service, DHS may proceed to notify licensing authorities by certifying in writing or by electronic data exchange that the person is not in compliance with the support order. T.C.A. § 36-5-701 through 36-5-705.

A certification from DHS requires the licensing authority to deny any renewal request, revoke the obligor's license, or refuse to issue or reinstate the license, as the case may be, until the obligor provides the licensing authority with a release from DHS stating that the obligor is in compliance with the order of support. T.C.A. §§ 36-5-702; 36-5-706. Upon receipt of a certification from DHS, the licensing authority is required to notify the obligor of the action taken against the license. The notice is to be sent by regular mail and must state that the obligor's application for issuance, renewal or reinstatement has been denied, or that the current license has been suspended or revoked due to certification by DHS that the obligor is not in compliance with an order of support. A notice of suspension must specify the reason and statutory

grounds for suspension and the effective date for the suspension. The notice must also state that a release from DHS must be obtained before the license can be issued, reinstated, or renewed. T.C.A. § 36-5-706. When the delinquency has been corrected, DHS is required to inform the licensing authority of compliance. Unless the time has passed for a new periodic license fee, the obligor is not required to pay a new fee for the remainder of the licensing period; however, the licensing authority may impose a reinstatement fee not to exceed five dollars (\$5.00). T.C.A. § 36-5-706; 36-5-707.

On or before July 1, 1996, or as soon thereafter as economically feasible and at least annually thereafter, all licensing authorities are required to provide DHS with a database of information on magnetic tape or other machine-readable format (or if this information is not available on magnetic format, in a format agreed upon by the commission of DHS and the licensing authority). That data shall include information about both applicants and all current licensees (including those currently suspended or revoked if able to be reinstated). If available, the information is to include name, date of birth, address, social security number or federal employer ID number, description, type of license, effective date and expiration date of license, and status of the license. T.C.A. § 36-5-711.

Courts are also authorized to order the denial, revocation or suspension of a license in connection with proceedings to enforce orders of child support. If the obligee specifically requests the court to revoke a license, the court may order any or all of the obligor's licenses be subject to revocation, denial or suspension. In that case, the clerk of the court will send a copy of the court order to the appropriate licensing authorities, and the licensing authority is required to revoke, deny or suspend the license in accordance with the court's order. When the obligor is in compliance with the order of support, the court will enter an order showing a finding of compliance which the clerk will send to each licensing authority, and the licensing authority will then issue, reinstate or reissue the license. T.C.A. § 36-5-101.

All applications for professional licenses, driver licenses, occupational licenses, hunting and fishing licenses or recreational licenses, or marriage licenses issued on and after July 1, 1997 are required to contain the social security number of each applicant. (Note that in connection with marriage licenses, the Tennessee Attorney General has opined that applicants who have not been issued a social security number are not required to provide one in order to obtain a marriage license. Op. Tenn. Att'y Gen. 08-126 (July 22, 2008)). This principle should apply to other licenses that are subject to this statute, so that applicants are required to provide their social security numbers only if they have one. This information is to be provided to the Department of Human Services or its contractors or agents enforcing Title IV-D of the Social Security Act, to the extent possible in electronic or magnetic automated formats. T.C.A. § 36-5-1301.

Relationship to County Legislative Body and Other Officials- County Clerk

Reference Number: CTAS-57

The many and varied duties of the county clerk's office necessitate interaction with numerous county and state officials. The primary interactions which occur between the county clerk, the county mayor, and the county legislative body result from the county clerk's duties as the clerk of the county legislative body. T.C.A. §§ 18-6-101; 18-6-104. In this role, the county clerk works closely with these officials in keeping the minutes and other records of actions taken by the county legislative body. The county legislative body as a whole, or a committee selected by the county legislative body, serves as the county beer board, and the county clerk often assists the beer board in taking applications for permits to sell beer, recording the actions of the beer board and issuing permits.

After the county mayor has approved the bonds for county officials and bonded employees, the bonds must be recorded in the office of the register of deeds and transmitted to the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103.

Certification by the county clerk of other matters, such as approval of a wheel tax, mineral severance tax, or private act, may be necessary to the Department of Revenue, Secretary of State, or other officials as required by law.

The county clerk as the collector of certain state revenue works very closely with officials of the Department of Revenue. As a registrar of motor vehicles, the county clerk works very closely with officials of the Tennessee Department of Revenue's Vehicle Services Division. In connection with the issuance of hunting and fishing licenses (T.C.A. § 70-2-106) and boat registration numbers (T.C.A. § 69-9-208), the county clerk acts as agent for the Tennessee Wildlife Resources Agency and interacts with the appropriate officials of that agency.

The county clerk deals with the trustee regarding the remittance of fees (monthly or quarterly) to the general fund and the remittance of taxes collected by the county clerk, usually monthly. Although the

county clerk is no longer directly responsible for collecting the business tax, the county clerk still works closely with the Department of Revenue to assist in their collection efforts, and the county clerk continues to register businesses and issue business licenses. T.C.A. § 67-4-701 *et seq.*

Because the County Clerk is responsible for the issuance of marriage licenses, the County Clerk interacts with the Department of Health, Office of Vital Records, to ensure that the proper information is gathered and transmitted to the Office of Vital Records. The County Clerk's duties with respect to notaries public necessitate interaction with the appropriate officials in the office of the Secretary of State.

The county clerk, as the collector of various privilege taxes, interacts with the assessor of property. The assessor is required to notify the county clerk of all persons engaged in business who would be liable for the payment of privilege taxes collected by the county clerk, and the county clerk and the county mayor compare the assessor's list with the list of persons paying privilege taxes and report the result to the county legislative body. T.C.A. § 67-4-108. In addition, the county clerk records the oaths of the assessor and assessor's deputies, and forwards these oaths to the State Board of Equalization T.C.A. § 67-5-302.

The county clerk may also interact with the assessor in those counties in which the county legislative body requires the county clerk to prepare the property tax rolls from the assessment records. When the tax roll is completed, the county clerk delivers it to the county trustee on or before the first Monday in October each year for collection of the property taxes. The county clerk also prepares a statement showing the aggregate amount of the value of real and personal property, and the tax thereon, contained in the county, and in each municipality within the county, broken down by civil districts and wards. A copy of this statement must be forwarded to the Commissioner of Revenue and to the mayor of each municipality by the first Monday in November of each year. T.C.A. § 67-5-807.

The county clerk, as an *ex officio* member of the county public records commission, interacts with other records commission members, such as the register, and with the Tennessee State Library and Archives.

In those counties where the county clerk serves as a clerk of court for such courts as probate or juvenile, the clerk works closely with the judges of those particular courts.

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