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Miscellaneous Powers and Duties of the County Clerk

Dear Reader:

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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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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.

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