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Financial Matters-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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Financial Matters-County Clerk

Reference Number: CTAS-746

Fees-County Clerk

Reference Number: CTAS-747

County clerks may not demand or receive any fees or compensation not specified by law (T.C.A. § 8-21-101), and may not receive any authorized fees until the duty or service for which the fee is granted has been performed, unless specifically allowed by law. T.C.A. § 8-21-102. A county clerk who demands or receives fees higher than those prescribed by law may be liable to the party charged in the amount of fifty dollars (\$50.00), and is also guilty of a misdemeanor. T.C.A. § 8-21-103. It is the duty of the courts to decide, upon application by the county clerk, any question arising under law and such decision will protect the county clerk acting pursuant to the decision. T.C.A. § 8-21-105.

County clerks should always check the current statutes to confirm the correct amount of fees to be charged. The general fee statute (T.C.A. § 8-21-701) for the county clerk provides the fees for issuance of marriage licenses, transferring business licenses, certifying a notary public's election, recording official bonds, receiving and paying over revenue, for copies and certified copies of documents, and other fees.

In addition to the fees set out in the county clerk's fee statute above, the county clerk may be entitled to other fees for specific duties the clerk performs. The fees associated with the county clerk's duties in motor vehicle titling and registration are set out in Title 55, Chapters 4 and 6 of the Tennessee Code Annotated, and the current amounts of these fees may be obtained from the State Department of Revenue's Taxpayer and Vehicle Services Division (Vehicle Services Section).

Under T.C.A. § 55-6-104(a)(3), county clerks receive a fee of \$8.50 for or receiving and forwarding to the department of revenue each application for certificates of title, including all acknowledgments of signatures, provided, that three dollars (\$3.00) of the fee must be earmarked for the provision of services directly related to titling and registration and must not revert to the county general fund at the end of a budget year if unexpended.

Fees associated with issuance of business licenses are found in Title 67, Chapter 4, Part 7. There are other fees set out in other parts of the Tennessee Code Annotated for miscellaneous duties the clerk may perform, such as issuing hunting and fishing licenses.

The county clerk is not entitled to any fees for certificates and seals in the application for pension and pensioners' money, or upon powers of attorney for that purpose and the taking or receiving of fees in any such cases shall be a misdemeanor. T.C.A. § 8-21-703. A county clerk who also acts as a clerk of court is authorized to demand and receive the same fees as the other court clerks when performing court clerk's duties. These fees are set forth in T.C.A. § 8-21-401 *et seq.* County clerks acting as court clerks also collect the applicable sheriff's fees. T.C.A. § 8-21-901 *et seq.* Any county clerk with court clerk duties can take additional training courses with regard to those court clerk duties by taking training courses designed for clerks of court.

County clerks are prohibited from requiring or encouraging persons who pay by personal check to make the check out to any individual in his or her personal capacity. All checks received by the county clerk should be made out in the name of the appropriate governmental entity or to the county clerk's office, or in the name of the county clerk in his or her official capacity. T.C.A. § 9-1-117.

All county officials, including county clerks, are authorized to accept payment by credit card or debit card for any public taxes, licenses, fines, fees or other monies collected. Beginning June 7, 2001, the county legislative body may waive the processing fee that otherwise would be added to the amount collected when payment is made using a credit or debit card. T.C.A. § 9-1-108. The credit card numbers and related personal identification numbers are confidential records. T.C.A. § 10-7-504.

County clerks are required to adopt a policy for handling refunds of amounts overpaid, which must include one or more of the following: contacting the person or entity tendering the payment for specific instructions for handling the excess amount; allowing the county clerk's office to retain reasonable overage amounts as fees of the office; or providing a refund of the excess money less a reasonable amount retained as fees of the office. T.C.A. 8-21-701.

Official Bank Account-County Clerk

Reference Number: CTAS-748

Every county official handling public funds, including the county clerk, is required to maintain an official

bank account in a bank or banks within this state and to deposit any public funds to the official account or accounts within three (3) days of receipt. All county funds deposited with a bank or financial institution must be secured by collateral in the same manner and under the same conditions as state deposits as provided in Title 9, Chapter 4, *Tennessee Code Annotated*, and county clerks who maintain official accounts are authorized to enter into agreements with banks and other financial institutions as necessary for the maintenance of collateral to secure the funds on deposit. All disbursements from these accounts must be made by consecutively pre-numbered checks. A county clerk may also maintain a petty cash fund in an amount sufficient to transact the official business of the office. Any violation of the provisions governing official bank accounts is a Class C misdemeanor. T.C.A. § 5-8-207.

Deposit slips, deposit books, bank statements, canceled checks, and check books must be accurately maintained. As a practical matter, a county clerk should keep all available cash in daily interest bearing accounts. In one instance, a county official was charged with felony misappropriation because the official had agreed not to deposit a check at the request of a citizen until sufficient funds were in the bank to cover the check.

Duties as to Revenue-County Clerk

Reference Number: CTAS-749

The county clerk is required to maintain a revenue docket which includes a record of all sources of county revenue. T.C.A. § 5-8-106. The county clerk also performs various duties in relation to state revenue. T.C.A. § 18-6-105.

Auditing-County Clerk

Reference Number: CTAS-750

The records of all county clerks must be audited on an annual basis. T.C.A. § 4-3-304(4). The Comptroller is given the authority to establish auditing standards, and the county legislative body contracts with a certified public accountant, or the Division of Local Government Audit, to make the annual audit. T.C.A. §§ 9-3-212; 4-3-304. Auditors of the Division of Local Government Audit of the State Comptroller's Office or the independent certified public accountant will audit the county clerk's books, accounts, and records annually to ascertain any errors, irregularities or defaults. T.C.A. §§ 4-3-304; 9-3-201. The fiscal year for a county clerk's office is July 1 through June 30. County clerks must use the uniform chart of accounts.

Purchasing-County Clerk

Reference Number: CTAS-751

There are three sets of statutes, and many private acts, concerning purchasing by counties. Therefore, there is little uniformity in purchasing procedures in Tennessee's counties. The three major sets of statutes (general laws) affecting counties are: the County Purchasing Law of 1983, which provides some minimum requirements for general fund purchases for counties in which no local option purchasing law is in effect; the local option County Purchasing Law of 1957; and the local option County Financial Management Act of 1981. Also, in those counties that operate under metropolitan or charter forms of government, the county's purchasing procedures will appear in the metropolitan or county charter.

For additional information, see Purchasing.

Budgeting-County Clerk

Reference Number: CTAS-752

The Accounting/Budgeting/Finance tab contains information about budgeting and the various budgeting laws.

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