

(Words in boldface and underlined indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

Statute and regulation citations pulled from Alcohol are included as reference and are in red script. When alcohol regulations are cited there may be both a 3 AAC 304 (old) and a 3 AAC 305 ('new') reference. For the most part, 304 and 305 citations are similar in substance.

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.049. (AS 04.11.670) Foreclosures. A license issued under AS 17.38 and this chapter is not subject to foreclosure and may not be used as collateral to secure a debt.

However, if a license is transferred to another person, the transferor may secure payment for real and personal property conveyed to the transferee upon the promise of the transferee to transfer the license back to the transferor upon default in payment. (Eff. ___/___/___, Register ___)

Authority:	AS 17.38.010	AS 17.38.150	AS 17.38.200
	AS 17.38.070	AS 17.38.190	AS 17.38.900
	AS 17.38.121		

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.051. (305.065 old 304.106) Application for return of a license to a person with a retained security interest. (a) A licensee wishing to establish a security interest in a license being transferred to another person under 3 AAC 306.045 (3 AAC 305.060), shall submit the following additional documents with the transfer application:

- (1) a leasehold conveyance or contract of sale of real property made in the course of the license transfer;
- (2) a list of personal property being conveyed from the transferor to the transferee, along with the value of the property and a draft Uniform Commercial Code financing statement

in which a security interest in the license is claimed under 3 AAC 306.049 (AS 04.11.670), 3 AAC 306.080(d)(2)(B) (AS 04.11.360(4)(B)), containing the following statement: “Under the terms of 3 AAC 306.049 (AS 04.11.670), 3 AAC 306.080(d)(2)(B) (AS 04.11.360(4)(B)), and 3 AAC 306.051 (3 AAC 305.065), the transferor/lessor retains a security interest in the marijuana license that is the subject of this conveyance, and may, as a result, be able to obtain a retransfer of the license without satisfaction of other creditors.”; the value of the personal property must be sufficient for the board to determine that the license is not being used as collateral except as provided under 3 AAC 306.049 (AS 04.11.670);

(3) all transaction and security documents relating to the lease or sale of real property and sale of personal property in conjunction with the license transfer.

(b) The transferor must include in the published notice of transfer required by 3 AAC 306.025(b) (AS 04.11.310(a)), the following statement: “Under the terms of 3 AAC 306.080(d)(2)(B) (AS 04.11.360(4)(B)), 3 AAC 306.049 (AS 04.11.670), and 3 AAC 306.051 (3 AAC 305.065), the transferor/lessor retains a security interest in the marijuana license that is the subject of this conveyance, and may, as a result, be able to obtain a retransfer of the license without satisfaction of other creditors.”

(c) After board approval, a copy of the recorded leasehold conveyance or contract of sale of real property, and the recorded Uniform Commercial Code financing statement must be provided to the director before the transferred license may be operated.

(d) A security interest in a license may not be established when the license transfer contemplates a transfer of less than 100 percent of the interest in the license.

(e) A license with an established security interest may not be transferred to another person, unless all obligations under the security interest are satisfied before or as part of the

transfer, except that the board may make an exception in the case of the death of a licensee. (Eff. _____/_____/_____, Register _____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
 AS 17.38.070 AS 17.38.190 AS 17.38.900
 AS 17.38.121

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.052. (305.125 old 304.107) Compelled transfer of a license to the prior licensee with a security interest in the license. (a) If a former licensee seeks to compel the transfer of a license because of a promise under 3 AAC 306.049 (AS 04.11.670) given as collateral by the current licensee to the former licensee in the course of an earlier transfer of the license, followed by a default in payment in connection with property conveyed or a lease made in the course of the previous transfer, the board will deny the transfer if the creditors are not satisfied under 3 AAC 306.080(d)(2)(A) (AS 04.11.360(4)(A)), unless it clearly appears that

(1) the security interest was established in the previous transfer in accordance with 3 AAC 306.051 (3 AAC 305.065).

(2) the former licensee operated the license that was transferred for at least 240 hours;

(3) the term of a security interest in a license to secure payment for personal property did not exceed 10 years.

(b) The director may identify, in board meeting agendas, those applications for transfer of ownership that are secured as described in this section.

(c) After the foreclosure of real property that secures payment of debt also secured by a promise under 3 AAC 306.049 (AS 04.11.670), a license may not be retransferred without satisfaction of creditors under 3 AAC 306.080(d)(2)(A) (AS 04.11.360(4)(A)) unless

(1) the board approved an application for retransfer before the foreclosure; or

(2) the amount owed to the former licensee for the real property at the time of

foreclosure exceeds the fair market value of the property; the former licensee carries the burden of proof to show that the fair market value is less than the amount owed. (Eff. ___/___/____,

Register _____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200
AS 17.38.070 AS 17.38.190 AS 17.38.900
AS 17.38.121

3 AAC 306.080(d)(2) (AS 04.11.360(4)(A)(B)) is amended by adding new subparagraphs to read:

(d) After review of the application and all relevant information, the board will deny an application for transfer of license to another person if the board finds

(1) any cause listed in (a) of this section;

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless [THE TRANSFEROR GIVES SECURITY FOR THE PAYMENT OF THE DEBTS OR TAXES SATISFACTORY TO THE CREDITOR OR TAXING AUTHORITY;]

(A) the transferor gives security for the payment of the debts or taxes satisfactory to the creditor or taxing authority; or

(B) the transfer is under a promise given as collateral by the transferor to the transferee in course of an earlier transfer of the license under which promise the transferor is obliged to transfer the license back to the transferee in the event of default in payment for property conveyed as part of the earlier transfer of the license;

(3) that the transfer of the license to another person would result in violation of

the provisions of this chapter relating to identity of licensees and financing of licensees;

(4) that the prospective transferee does not have the qualifications of an original applicant required under this chapter; or

(5) that a protest by the local government is not arbitrary, capricious, and unreasonable.

(Eff. 2/21/2016, Register 217; am 2/21/2019, Register 229; am 8/21/2019, Register 231; am

8/7/2021, Register 239; am 7/30/2022, Register 243; am 1/22/2023, Register 245; am

___ / ___ / _____, Register _____)

Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200

AS 17.38.070 AS 17.38.190 AS 17.38.900

AS 17.38.121