



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

### MEMORANDUM

TO: Marijuana Control Board                      DATE: January 22, 2024

FROM: Kristina Serezhenkov, Regulations      RE: Security Interest Transfer  
Specialist

The board approved the draft regulations for initial Law review at the August 2023 meeting. Upon the Department of Law's approval, the draft was sent out for official public comment with the comment period closing 12.22.2023. Comments were received and are attached.

Options for the board:

- Move to adopt and send to Law for final review.
- Move to amend and adopt and then send to Law for final review.
- Move to send back to staff for more work
- Close the regulations project

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

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

**3 AAC 306.049. Foreclosures.** A marijuana establishment 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. 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 \_\_\_\_\_)

<b>Authority:</b>	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 new sections to read:

**3 AAC 306.051. Application for return of a license to a person with a retained security interest.** (a) A licensee who wishes to establish a security interest in a marijuana establishment license proposed for transfer to another person under 3 AAC 306.045 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, this section, and 3 AAC 306.080(d)(2)(B), containing the following statement: "Under the terms of 3 AAC 306.049, 3 AAC 306.051, and 3 AAC 306.080(d)(2)(B), 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; and

(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), the following statement: "Under the terms of 3 AAC 306.049, 3 AAC 306.051, and 3 AAC 306.080(d)(2)(B), 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 marijuana establishment 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 marijuana establishment 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. 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 306.052. 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 marijuana establishment license because of a promise under 3 AAC 306.049 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), unless it clearly appears that

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

(2) 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, a marijuana establishment license may not be retransferred without satisfaction of creditors under 3 AAC 306.080(d)(2)(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

Register \_\_\_\_\_, \_\_\_\_\_ 2024 COMMERCE, COMMUNITY, AND EC. DEV.

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) is amended to read:

(2) that the transferor has not paid all debts or taxes arising from the operation of the business licensed under this chapter unless

(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

(i) by the transferor to the transferee in the course of an earlier transfer of the license; and

(ii) that obliges the transferor 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;

(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

**From:** [Rick Benedict](#)  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Subject:** RE: 2023200341 NOTICE OF PROPOSED CHANGES TO SECURITY INTEREST TRANSFER IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD  
**Date:** Monday, November 27, 2023 9:19:50 AM

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You don't often get email from [rick.benedict@matsugov.us](mailto:rick.benedict@matsugov.us). [Learn why this is important](#)

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Good morning,

No comment from the Mat-Su Borough Planning Department.

Respectfully,

Rick Benedict – Current Planner  
Development Services Division  
Matanuska-Susitna Borough  
(907)861-8527 direct

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**From:** CED AMCO REGS (CED sponsored) <[amco.regs@alaska.gov](mailto:amco.regs@alaska.gov)>  
**Sent:** Monday, November 20, 2023 1:25 PM  
**Cc:** CED AMCO REGS (CED sponsored) <[amco.regs@alaska.gov](mailto:amco.regs@alaska.gov)>  
**Subject:** 2023200341 NOTICE OF PROPOSED CHANGES TO SECURITY INTEREST TRANSFER IN THE REGULATIONS OF THE MARIJUANA CONTROL BOARD

[**EXTERNAL EMAIL** - CAUTION: Do not open unexpected attachments or links.]

Dear local governments,

Please see attached proposed regulations of the Marijuana Control Board regarding security interest transfer. This regulation is open for public comment until December 22, 2023 at 4:30 p.m. Comments and questions may be submitted to the Alcohol and Marijuana Control Office at [amco.regs@alaska.gov](mailto:amco.regs@alaska.gov) or through the Online Public System <http://notice.alaska.gov/213292>.

Respectfully,

Kristina Serezhenkov  
Regulations Specialist  
Alcohol & Marijuana Control Office  
550 W 7<sup>th</sup> Avenue, Ste. 1600  
Anchorage, AK 99501

**From:** [Brenda Butler](#)  
**To:** [CED AMCO REGS \(CED sponsored\)](#)  
**Cc:** [Jana Weltzin](#); [Randi Baker](#)  
**Subject:** JDW Counsel Public Comment - Security Interest  
**Date:** Friday, December 22, 2023 9:11:10 AM  
**Attachments:** [JDW Counsel Public Comment - Security Interest.pdf](#)

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Good Morning,

On behalf of Attorney Weltzin, please find the attached public comment.

Please confirm receipt of this email submission.

Thank you!

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*\*\* Please REPLY ALL when responding to this Email \*\**

*Brenda Butler*

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December 21, 2023

Honorable Members of the Marijuana Control Board:

I am writing to express my support for the proposed changes to Alaska's marijuana regulations in Title 3, Chapter 306 of the Alaska Administrative Code, which relate to security interest transfers of Marijuana licenses. The proposed changes demonstrate a thoughtful approach that will enhance the efficiency and fairness of the marijuana industry in Alaska.

The introduction of 3 AAC 306.049 ensures the stability and integrity of marijuana licenses by ensuring that these licenses cannot be foreclosed and used as collateral for debts. This provides clarity, transparency, and security for licensees. The provision which allows the transferor to secure payment during the transfer, along with the ability to transfer the license back to the security holder in case of default adds protection for both parties.

3 AAC 306.051 which outlines the transfer application process, is an addition which promotes transparency and accountability in the industry. Similarly, 3 AAC 306.052 establishes fair conditions for a prior licensee to seek the transfer of a license back to them with a held security interest due to default.

The introduction of 3 AAC 306.052, which outlines the conditions for a prior licensee to seek the transfer of a marijuana establishment license with a held security interest due to default in payment, provides a fair and equitable resolution mechanism. This ensures that licensees receive due process and can address any financial challenges before facing potential license revocation and transfer of the license back to the security holder.

The proposed amendment to 3 AAC 306.080(d)(2), allowing the board to approve the retransfer of a marijuana establishment license back to the prior licensee with an established security interest, is a prudent move. This flexibility allows for a more nuanced response to situations where a licensee with a security interest faces financial difficulties, providing a pathway for a resolution which considers the interests of all parties involved.

In conclusion, the proposed changes to Alaska's marijuana regulations represent a balanced approach to addressing security interest transfer issues within the marijuana industry. These amendments contribute to the overall health and sustainability of Alaska's marijuana market. I urge the Marijuana Control Board to support and implement these changes, recognizing their potential to foster a more robust and secure environment for all stakeholders.





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Thank you for your attention to this matter. I trust that the Alaska Marijuana Control Board will continue to prioritize the development of regulatory framework that continues to promote fairness and transparency in the Marijuana industry in Alaska.

Truly and Sincerely Yours,



Jana Weltzin, Esq.