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County Clerks

WESLEY ROBERTSON, CTAS COUNTY GOVERNMENT CONSULTANT
LIBBY MCCROSKEY, CTAS MANAGER OF LEGAL SERVICES

Oath of Office

- County Clerk can administer oath to all other officials (also county mayor and current/retired judges)
- Oaths must be written and signed, dated, and filed in County Clerk's office

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Official Bonds

Approved by CLB (certified by county clerk) → **Recorded in Register's office** → **Filed in County Clerk's office**

Failure to file bond: **OFFICE VACANT**

Insurance can be used instead of bonds
(filed in register's office, not in county clerk's office)

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County Clerk Bond Amount

Counties with populations of 15,000 or more	Counties with populations of less than 15,000
$100,000	**$50,000**

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Duties of the County Clerk

- Clerk of County Legislative Body
- Motor Vehicle Titling and Registration
- Beer Permits
- Business Licenses
- Marriage Licenses and Taxes
- Notary Public Applications
- Pawnbroker Licenses
- Manufactured Homes
- Privilege Taxes
- Personnel Policies
- Wheel Taxes
- Hotel/Motel Taxes
- Miscellaneous Duties

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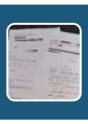
Clerk of County Legislative Body

Keeps records (including minutes)


Sends notices
- Special meetings
- Vacancies

Presents resolutions to County Mayor for signature (and report)

Private Acts - notifies Secretary of State of local approval/disapproval

Other duties required by local rules

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Minutes - minimum requirements

- Persons present
- Motions, proposals and resolutions offered
- Results of votes taken
- Record of individual votes in case of roll call vote (required for elections and appointments of county officers)
- *Open to public inspection in Clerk's office*

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Minutes - Usual Format

- Date, place, and time of meeting and whether regular or special meeting
- Members not in attendance
- Approval/correction of minutes of previous meeting
- Motions and amendments, with name of maker, and vote
- Resolutions (in full)

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Minutes - Usual Format

- Voting
  - Roll call - actual vote of each member
  - Voice vote - "approved/disapproved by voice vote"
  - Show of hands - count of the votes
- Summaries or written reports appended to the minutes for committee reports
- Committee appointments, elections to fill vacancies, confirmation of appointments
- Special provisions (e.g., 2/3 vote)
- Notation if meeting is public hearing
- Time of Adjournment

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Minutes

Should be signed by CLB chairperson and County Clerk

Kept as permanent record in clerk's office

Retain rough minutes until actual minutes are approved

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AGENDA

Typical order of business:

- Call to order by Chairperson
- Roll call by County Clerk
- Reading and approval of minutes
- Resolutions and special recognition
- Elections, appointments and confirmations
- Reports of officials and committees
- Unfinished business
- New business
- Announcements and statements
- Adjournment

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Open Meetings/Sunshine Law

County legislative body meetings	"Adequate notice"	Actions taken in violation of this law
• Must be open to the public	• Must be given to the public	• Become VOID

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Filling Vacancies

- Filled by county legislative body until next countywide election
  - County clerk gives notice to CLB members (may be waived by CLB if members have notice by another source)
  - Presiding officer gives 7 days newspaper notice
    - Office to be filled
    - Date/time/place of public meeting
- CLB has 120 days to fill vacancy (unless sufficient time to put on ballot in upcoming election)

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Vacancies - Temporary Successor

- Temporary successor for County Clerk
  - Chief Deputy
  - Other deputy designated by County Clerk in writing
- Discharges duties only until CLB can act to fill the vacancy

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Beer Permits

- County Clerk acts as clerk of Beer Board
- Takes application and fee
- Issues permits
- Collects annual privilege tax

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Beer Permits

Issued to owner of business

Valid only for business named in permit

Valid for only one location

Non-transferable (cannot be transferred to another owner, another location or another business name)

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Beer Permits

Application Contents

- Name of applicant (owner)
- Name of business
- Location of business
- All persons, firms, corporations, joint-stock companies, syndicates or associations with at least 5% ownership interest in the business (owners)
- Name and address of person to receive tax notices and other communications
- Statement that no owner or person involved in selling beer has been convicted of a violation of beer or alcoholic beverage laws or a crime of moral turpitude in past 10 years
- Whether applicant is applying for on-premises or off-premises permit, or both
- Any other information reasonably requested by the beer board

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Beer Permit Application Fee

$250.00

- Must be submitted with application
- Non-refundable, even if permit application is denied

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Beer - Annual Privilege Tax

- $100.00 annual tax due January 1
- Mail notices no later than December 1
- Delinquent January 31 (or 30 days after notice, whichever is later)
- Send certified delinquency notice
- If not paid in 10 days, permit can be revoked by beer board
- Tax is prorated for new applications

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Duration of Beer Permits

- **Beer permits have no expiration date**
- Permit becomes void upon:
  - termination of the business
  - change of ownership
  - relocation of business
  - change in name of business
- Otherwise, permit valid until suspended or revoked

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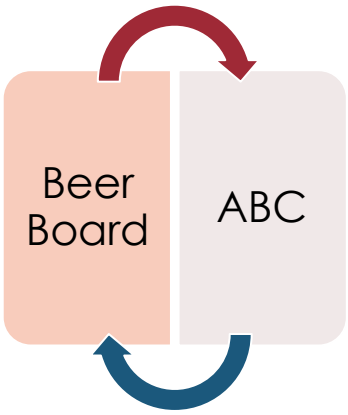
Reciprocal Notice Requirement

If local beer board revokes or suspends a beer permit at an establishment with a liquor license, beer board must notify the ABC



The ABC must notify the beer board if they revoke or suspend a liquor license

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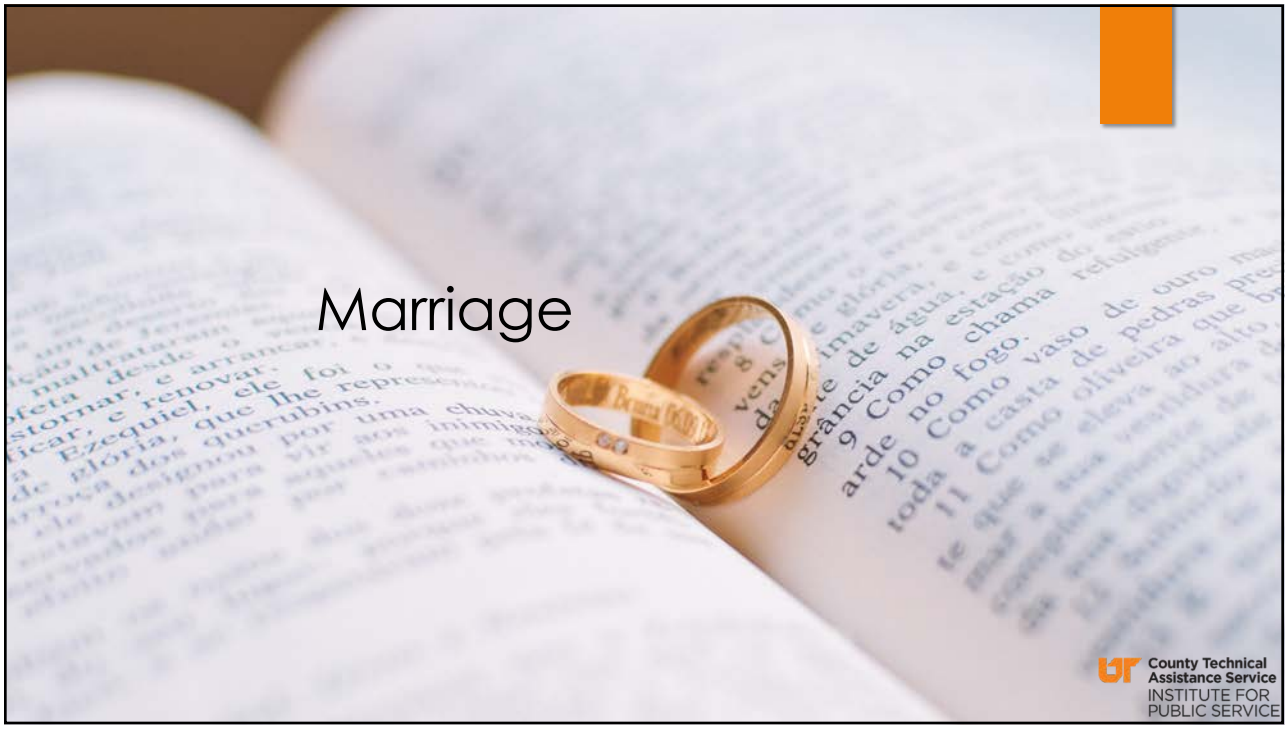

General Rules

- Prohibited degrees of relationship (TCA 36-3-101)
  - Adoption establishes the same relationship as a biological relationship
- Bigamy is a Class A misdemeanor
- Common law marriages cannot be created in Tennessee (but will be recognized if permitted in other states)
- Marriages are not valid without first obtaining a marriage license
- License is valid for 30 days from issuance

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Marriage License Application

- Written, sworn application required
- Personal appearance by both parties (unless disabled, incarcerated, or military deployed overseas - use affidavit)
- Name, age, and address of both parties, and name and address of parents
- Sworn to by both applicants
- Social Security Number (required only if they have one – see Attorney General Opinion 08-126 – no visa/passport required)
- Identification?

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Minimum Age

Under 17	Ages 17 – 18
• No license can be issued	• Must be within 4 years in age • Consent of parents, guardian, or next of kin (unless minor emancipated)

Parents, guardian, or next of kin may consent to application in person or by sworn affidavit

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Three Day Waiting Period

- If either applicant is under 18, the law requires that the application remain on file for 3 days before license can be issued
  - Does not apply if the minor's parents, legal guardian, or next of kin join in the application
  - This only applies if the marriage involves an emancipated minor, which does not require parental consent

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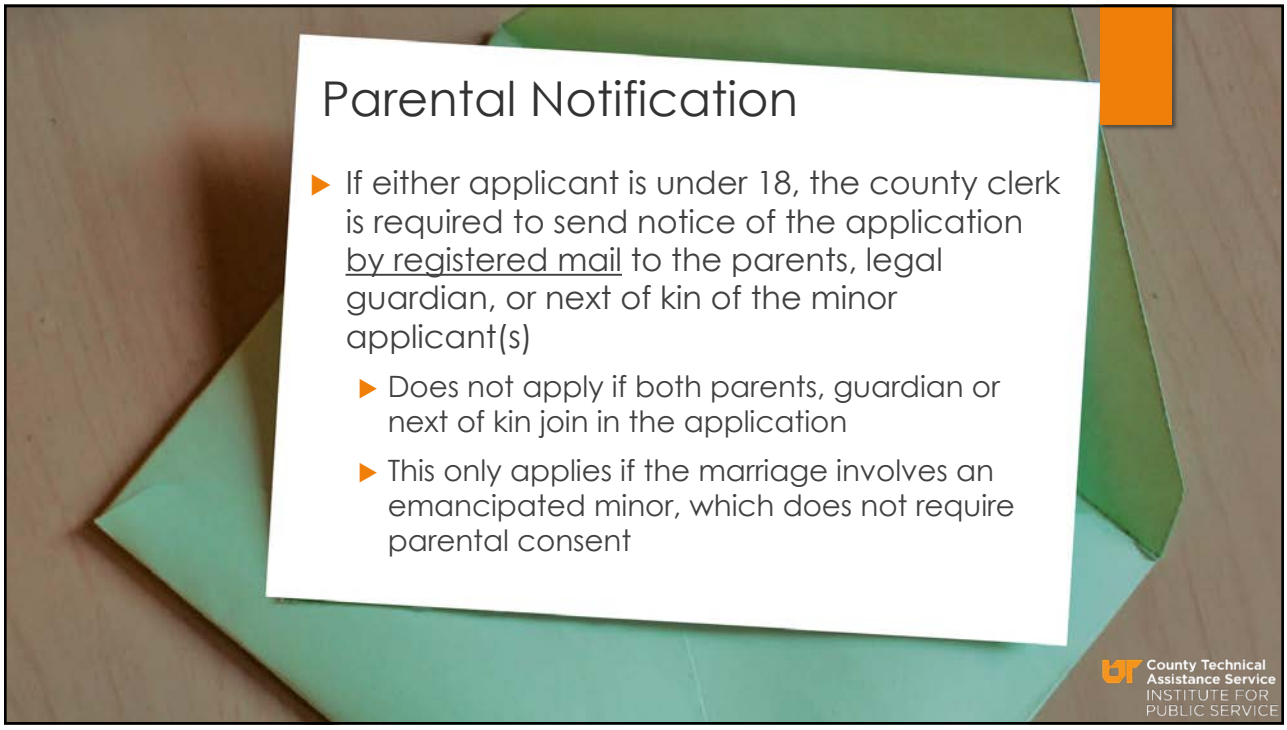

Who Performs the Ceremony?

- Current and former county clerks
- Ordained religious leaders
- Current and former county commissioners
- City mayors
- Current and former county mayors
- Current and former judges
- Governor
- Current and former speakers of state senate and house of representatives

All of these can perform a ceremony in any county in Tennessee

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Internet/Mail-Order Ministers

- Deputy county clerks can also perform marriage ceremonies
- Internet/Mail-Order Ministers
  - Probably not authorized by statute
  - Court probably would not invalidate if everything else in order
  - County Clerk has no authority to examine qualifications of persons who solemnize marriages

AG opinions: 15-14, 85-243, U97-041, 97-138, and 97-139

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Gratuities

County Clerks, County Mayors, and City Mayors may keep any gratuity received for solemnization of a marriage

Judges cannot accept payment

CANNOT charge a fee for ceremony

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Return of Documents

- The officiant is required to return license to county clerk within 3 days after the ceremony
  - *County Clerk has no authority to require proof that officiant is authorized to perform ceremony, and must presume marriage is valid*
- Vital Records form also must be completed and returned to the county clerk within 3 days

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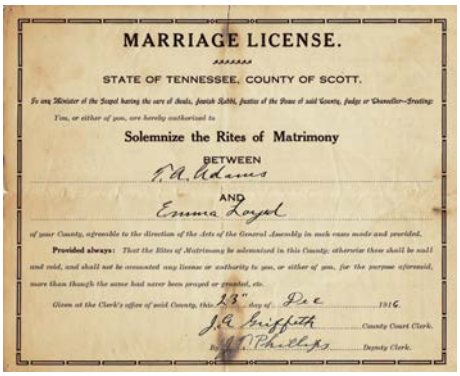
Marriage Certificate

- Most County Clerks forward a certificate to the newly married couple after all documentation has been returned to the clerk's office



MARRIAGE LICENSE.

STATE OF TENNESSEE, COUNTY OF SCOTT.

To any Minister of the Gospel having the care of Souls, Jewish Rabbi, Justice of the Peace of said County, Judge or Chancellor-Greeting:

You, or either of you, are hereby authorized to

Solemnize the Rites of Matrimony

BETWEEN

P. A. Adams

AND

Emma Loyd

of your County, agreeable to the direction of the Acts of the General Assembly in such cases made and provided.

Provided always: That the Rites of Matrimony be solemnized in this County, otherwise these shall be null and void, and shall not be accounted any license or authority to you, or either of you, for the purpose aforesaid, more than though the same had never been prayed or granted, etc.

Given at the Clerk's office of said County, this 23" day of Dec 1916.

J. A. Griffith County Court Clerk.

By J. J. Phillips Deputy Clerk.

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Marriage Fees and Taxes

Tax	Rate
State Privilege Tax	$15.00
State Privilege Tax	$5.00
Optional County Tax	$5.00
County Clerk's Fee	$10.00
Optional Acts and Fees	
Copy of License	$0.50
Marriage Certificate/Seal	$5.00

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State Marriage Fee

- Additional state fee of **$62.50**
- $60.00 paid to the state (no deductions)
  - Exempt if both parties attend premarital counseling
  - AOC form must be used for exemption
  - Special rule only for Sevier County (non-residents exempt)

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County Clerk Responsibility

- Do not issue license:
  - "When it appears" that either applicant is "drunk, insane or an imbecile"
  - To minor applicants (except with consent of both parents if 17-18, or minor emancipated)
  - To anyone between 17 and 18 where other person is 4 or more years older
- Do not unreasonably interfere with the fundamental constitutional right to marry
- GOOD FAITH is the key!

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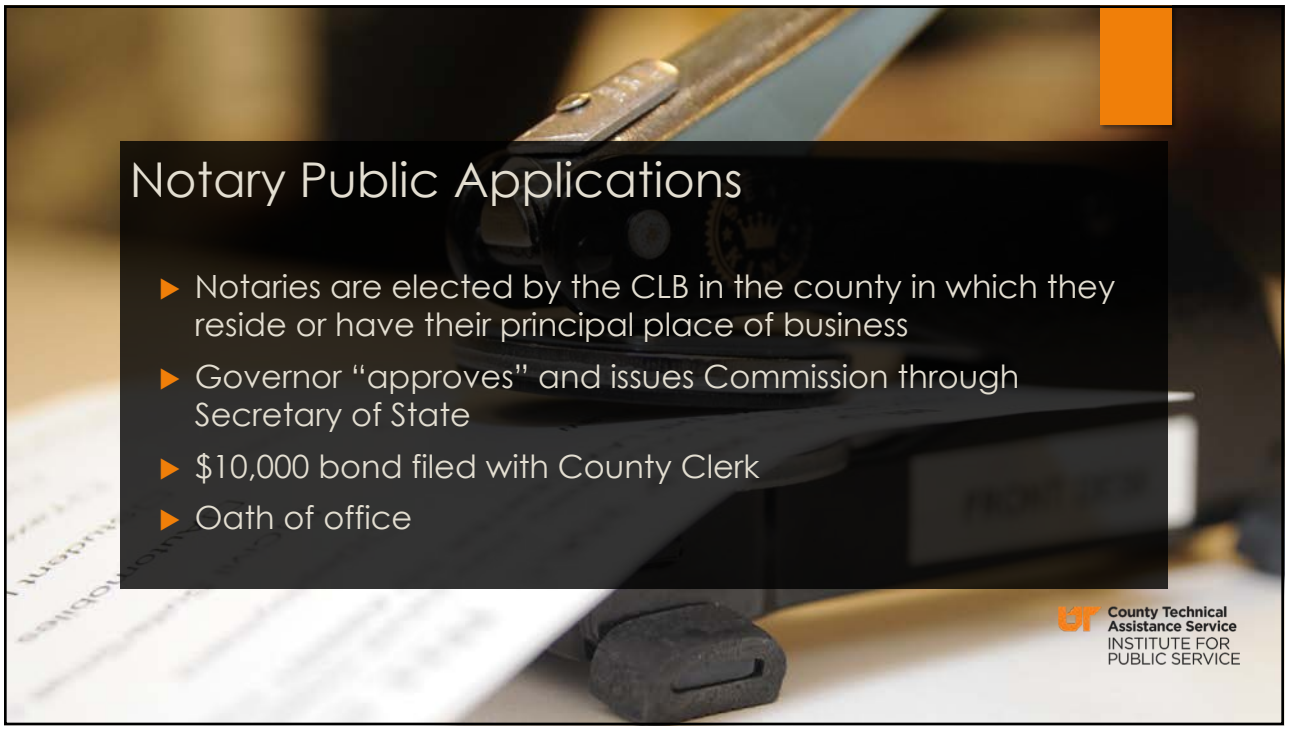

Notary Public Applications

- Notaries are elected by the CLB in the county in which they reside or have their principal place of business
- Governor "approves" and issues Commission through Secretary of State
- $10,000 bond filed with County Clerk
- Oath of office

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Notary Public – Clerk's Fees

Fee	Amount
Application Fee	$12.00 ($7.00 to County Clerk; $5.00 to Secretary of State
Fee if County Clerk procures seal	< 20% of cost
Taking and recording bond	$2.00
Fee for moving to another county	$7.00 ($5.00 to County Clerk; $2.00 to Secretary of State)

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Notary Commission

County clerk certifies notary's election and forwards fee to Secretary of State

Notary's commission issued by Governor, Secretary of State sends to County Clerk

County clerk delivers commission to notary ONLY after oath taken and bond filed

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Notary Public Seal

- Rubber type stamp in any color except black or yellow (must show up black when copied on non-color copier)
- Designed by Secretary of State
- No penalty for using wrong color
- Documents not invalid with wrong seal

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Pawnbroker vs. Title Pledge Lender

Pawnbroker

- TCA 45-6-201 *et seq.*
- Buy-sell agreements on personal property & loans secured by personal property
- Pawnbroker takes physical possession of the property
- County Clerk issues license

Title Pledge Lender

- TCA 45-15-101 *et seq.*
- Loans on certificates of title or on titled personal property
- State issues license, not County Clerk

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Pawnbroker - Eligibility

- Good moral character
- "Net assets" of at least $75,000
- Fair and lawful operation of business
- No felony convictions within past 10 years directly related to pawnbrokering or would otherwise make person unfit to be pawnbroker

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Application for License

- Name (partners, officers and shareholders)
- Street address of business
- Specify amount of net assets/capital, with unaudited CPA statement: *"According to the information provided to me, the net assets, as defined in Tennessee Code Annotated, § 45-6-203, or proposed capital to be used by the applicant, _____ (name) in the pawnbroker business, are valued at not less than seventy-five thousand dollars ($75,000)"*
- Signature of 10 county residents and landowners attesting to moral character
- Applicant's affidavit of no felony convictions in 10 years affecting business
- Police chief/sheriff/TBI certificate of no felony convictions in 10 years (applicant must pay fees)
- $50.00 in certified funds payable to county clerk (non-refundable)

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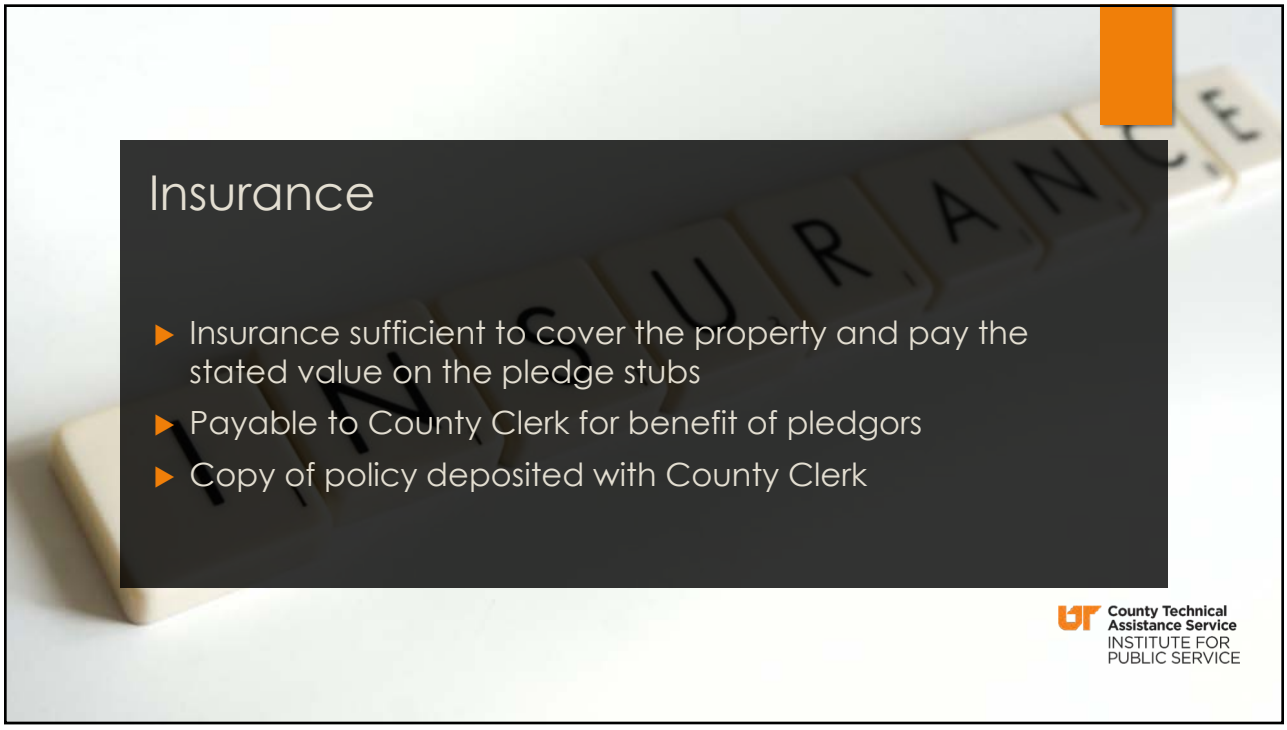

Insurance

- Insurance sufficient to cover the property and pay the stated value on the pledge stubs
- Payable to County Clerk for benefit of pledgors
- Copy of policy deposited with County Clerk

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Transferability of License

- Not transferable from one person to another
- Transferable from one location to another within the county by payment of $10.00 fee to County Clerk
- Not transferable outside county of issuance

Note that pawnbroker licenses have no expiration date.

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Wheel Taxes

- County Clerk collects county wheel taxes
- Wheel taxes may be levied under general law or by private act (or both)
- Collected at the same time as state motor vehicle registration fees

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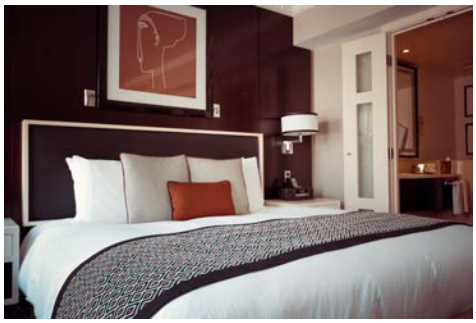
Hotel/Motel Taxes

- County Clerk (usually) collects county hotel/motel taxes
- Can publish names of delinquent taxpayers



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Other Powers and Duties

- Motor vehicle titling and registration
- Issues business licenses (revenue collects)
- Authorized to take depositions and affidavits, administer oaths, and take acknowledgments
- Keeps approved county road list
- Keeps county personnel policies
- May issue hunting and fishing licenses
- May issue driver licenses

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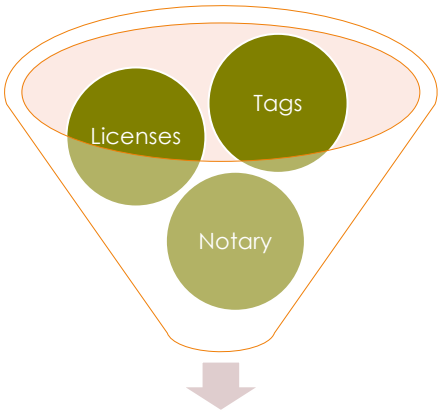
Fees

T.C.A. § 8-21-701



Collected by County Clerk

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Official Bank Account

- Required to set up bank account in name/title of County Clerk
- Disbursements by pre-numbered checks
- Collateralization, if applicable
- Class C misdemeanor if violated

Cash Flow Process

Public pays fees → Balance drawer at end of day → Deposit within 3 business days → Fees turned over to trustee

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Financial Reporting

- Operating statements are made on a monthly, quarterly, & annual basis.
- Special reports may be requested by the county legislative body
- Each department must file fiscal year annual financial report with the county mayor and county clerk
- Report must be filed before the 1st Monday in September

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Budgeting Authority

- Private Act
- General Law
- 1981/1957 Acts
- Charter/Metro

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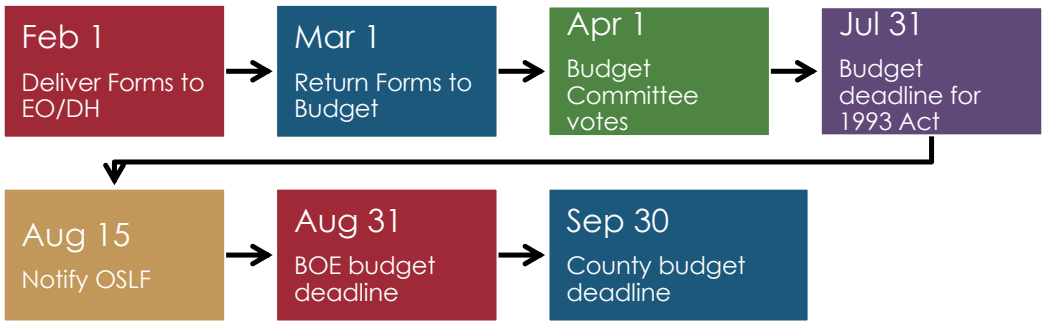
Budget Calendar



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Budget Amendments

Document request → Present request → CLB vote

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County Clerk Compensation

- General Assembly sets county clerk's minimum compensation by statute
- Amount set by county population class
- Annual increase tied to state employee average annualized raise
- County legislative body may raise pay above minimum but cannot lower it
- Educational incentive pay for COCTP (state/local)

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Letter of Agreement/Salary Suit

Agree with personnel budget?

Yes	**No**
Letter of Agreement	Salary Suit

Either must be done within 30 days of the budget's passing.

*Newly elected officials have 30 days from taking office (Sept 1) to sign letter of agreement or file a salary suit.

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Your Budget – Salary Suit

Official disagrees with personnel budget

Files salary suit

- Mayor named Defendant
- Must answer within 5 days

Hearing

Order issued determining compensation

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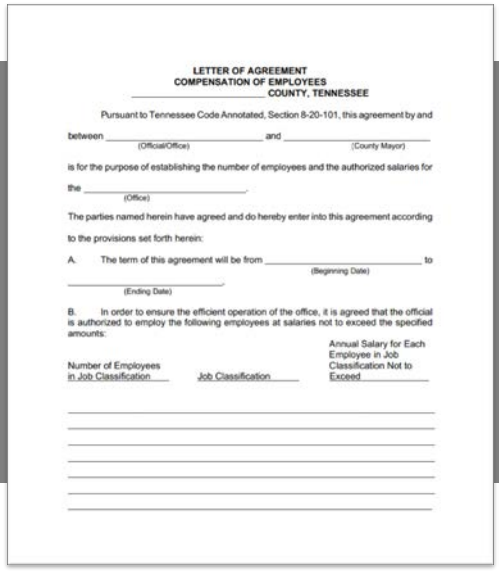
Sample Letter of Agreement



LETTER OF AGREEMENT
COMPENSATION OF EMPLOYEES
_____ COUNTY, TENNESSEE

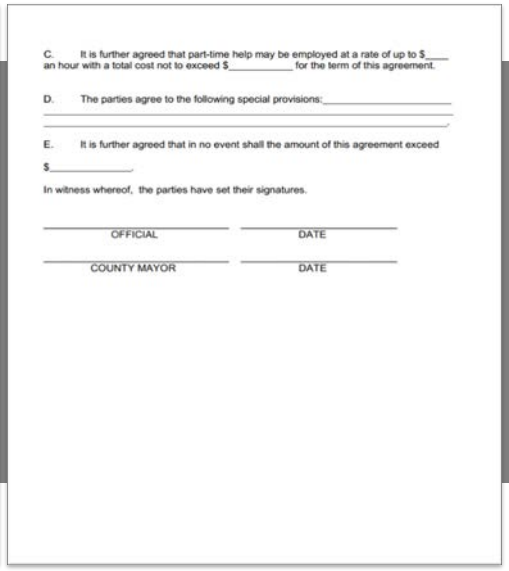
Pursuant to Tennessee Code Annotated, Section 8-20-101, this agreement by and between _____ (Official/Office) and _____ (County Mayor) is for the purpose of establishing the number of employees and the authorized salaries for the _____ (Office).

The parties named herein have agreed and do hereby enter into this agreement according to the provisions set forth herein:

A. The term of this agreement will be from _____ (Beginning Date) to _____ (Ending Date).

B. In order to ensure the efficient operation of the office, it is agreed that the official is authorized to employ the following employees at salaries not to exceed the specified amounts:

Number of Employees in Job Classification	Job Classification	Annual Salary for Each Employee in Job Classification Not to Exceed



C. It is further agreed that part-time help may be employed at a rate of up to $____ an hour with a total cost not to exceed $_____ for the term of this agreement.

D. The parties agree to the following special provisions:_____

E. It is further agreed that in no event shall the amount of this agreement exceed $_____.

In witness whereof, the parties have set their signatures.

_____ OFFICIAL _____ DATE

_____ COUNTY MAYOR _____ DATE

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Budgetary vs Fee System

County commission decides whether fee offices are on Budgetary or Fee System:

Budgetary System

- All fees are turned over to the general fund monthly
- All expenses of the office are budgeted
- Sheriff is always under budgetary system

Fee System

- Only "excess" fees are turned over quarterly
- Salaries and expenses are paid from fee account
- Population exception for a few counties regarding fee remittance

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Fee System - Authorized Reserve Funds

An amount equal to 3 times the monthly salaries of the county clerk, deputies, & assistants

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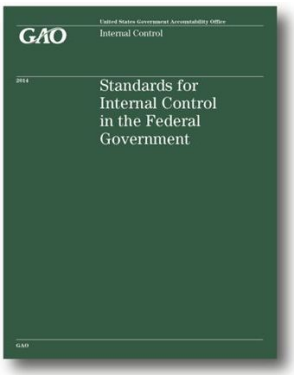
What are Internal Controls?

A process that provides reasonable assurance the objectives of an entity will be achieved.



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T.C.A § 9-18-102(a)

Comply

Obligations and costs are in compliance with applicable law

Safeguard

Funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation;

Record

Revenues and expenditures are properly recorded and accounted for to permit the preparation of accurate and reliable financial and statistical reports and to maintain accountability over the assets.

Law went into effect **June 30, 2016**!

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Why Do County Governments Need Internal Controls?

- Reduce fraud & waste
- Ensure legal, regulatory, & policy compliance
- Protect county assets
- Promote transparency & accountability

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Who is Responsible for Establishing Internal Controls?

County Management (*elected/appointed officials*) are responsible for:

design, implementation and maintenance

of *adequate* internal controls over their office/department.

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Fraud Detection

- External auditors (performing routine annual audits) detect **less than 5%** of identified occupational fraud.
- More fraud is identified by **accident or through anonymous tips** than by the external annual financial and compliance auditors.

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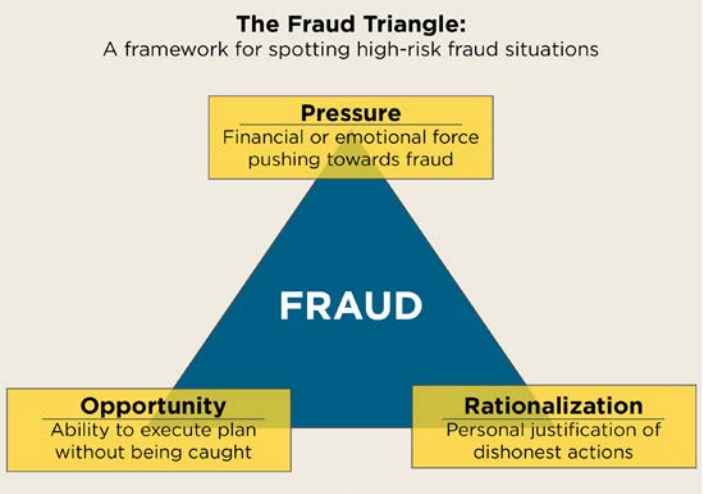
Poor Internal Controls = Opportunity for FRAUD



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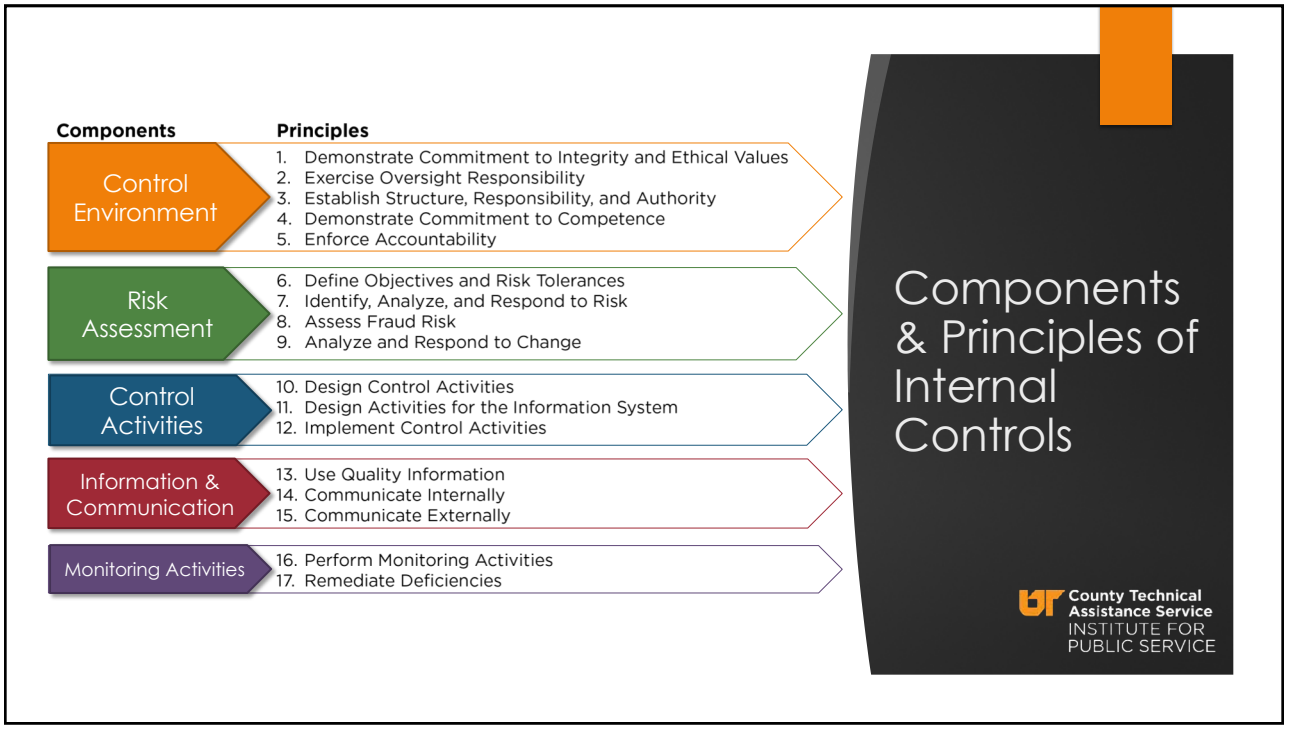
Summary of Audit Findings

- Duties were not segregated adequately
- Failure to review audit logs
- Multiple employees operating from the same cash drawer
- Deficiencies in accounting records, reconciliations, timely deposits, and 3-day deposit law



Internal Controls Part 2 – Risk Management

- Identify factors that may increase risk:
  - Office doors not rekeyed for a decade
  - Computer passwords taped onto computers
  - Employees operating out of same cash drawer, etc.
- Determine the significance of risk and likelihood of fraud, waste, abuse and inaccurate financial reporting (think reducing risk vs. cost of control).
- Develop specific actions to reduce the risk to an acceptable level.

A Risk Matrix can be useful when you can't eliminate risk

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Purchasing Authority

- Private Act
- General Law
- 1981/1957 Acts
- Charter/Metro

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Methods of Purchasing

- **Competitive Sealed Bids/Proposals – ITB/IFB/RFP**
- **Request for Qualification (RFQ) – professional services**
- **Informal quotes**

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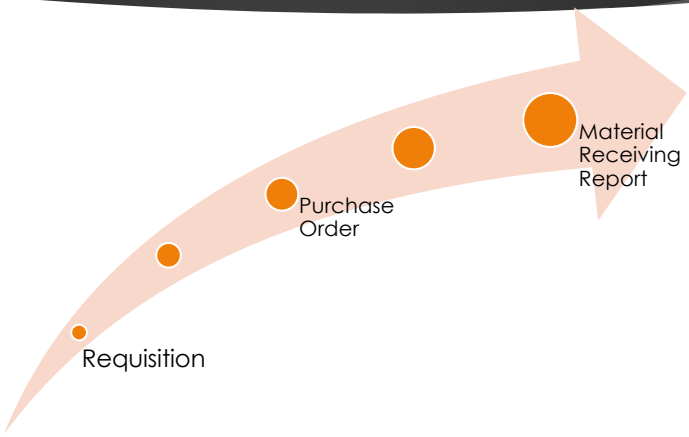
Purchasing Process



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Audit

- Annual Financial and Compliance Audit
- Required by State Statute for all 95 counties
- State Comptroller or a contracted CPA firm performs
- Information System Review

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Wrap Up

Congratulations!

Welcome to county government!

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