

(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 _____)

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 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