

# LIQUOR LICENSING FOR HOTEL AND RESTAURANT ACQUISITIONS

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You are the General Counsel or the outside counsel to a hotel or restaurant brand. Your client informs you that the company intends to purchase multiple units of additional properties in several different states. Your head spins, full of questions. Will it be an asset sale or stock purchase? Will we retain the employees? Will we rebrand the property to our own brand, keep the existing brand, or designate a third brand?

Large and even medium scale acquisitions in the hospitality industry trigger these important legal questions and more. Sometimes, however, the dealmakers overlook or delay one critical area: alcohol service! How will we make sure the hotel or restaurant will be able to serve alcohol on Day One?

Careful planning and precise timing are critical. If your transaction involves properties in multiple jurisdictions, you will need to understand the existing licensing structure of each property, and the requirements and procedures for transferring the license to a new owner, noting that the procedures for doing this will not be the same in every jurisdiction. The timelines in each location, dictated by the governing licensing authorities will be different; therefore, it is essential that you work backwards from your proposed closing date to guarantee yourself enough time for licensing. Here are some initial questions to consider:

- Does the jurisdiction require licensing on more than one level (state/local)?
- Does the jurisdiction allow the transfer of a license from the seller, or will new licenses be required?
- Does the jurisdiction's licensing process include prerequisites with additional internal deadlines which must be adhered to (*e.g.*, publication requirements)?
- Does the jurisdiction allow a procedure for temporary licensing if permanent licensing cannot be completed by the closing date?
- Does the jurisdiction allow a "master file" when there are multiple properties licensed to one entity inside the same jurisdiction?

The answers to these questions will provide you with a rough timeline to work with. The next thing you need to be prepared for, however, is the inevitable. Something will go wrong and you will need to adjust your timeline. That means that is even more important for you to build in extra time. For example:

- The kitchen failed the health inspection.
- The license cannot transfer because the seller has sales tax due and unpaid.

- The officers of your licensed entity have all gone overseas for vacation and cannot be fingerprinted.

Wait a minute...the officers need to be fingerprinted? What officers?

Liquor license applications in all states require some level of fingerprinting of the officers disclosed on the liquor license application, as well as disclosure of personal information like physical description (height, weight, eye color), bank account references, and social security numbers. Similar information may be required for spouses of the disclosed individuals. There are several reasons that government agencies request this information, but the most important one is that the state has an interest in knowing that the individuals running a regulated business are who they say they are. The number of individuals to be disclosed will depend on the corporate structure of the applicant, and, depending on the nature of the transaction and the enforcement policies of the licensing jurisdiction, the officers of parent companies or holding companies related to the applicant may also need to be disclosed. It will be important for you to understand at the beginning of the licensing process how many individuals need to be fingerprinted and submit personal questionnaires.

Timing is paramount when acquiring any business with a liquor license. These introductory tips apply in any jurisdiction; however, note that each licensing authority has different rules and communication with those government agencies about your transaction so that you understand the expectations will be key to a successful and timely transaction.

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