Restaurant Finance & Liquor Licenses: Securing a Pledge of License as Collateral for a Loan

By Adam Barnosky on March 26, 2025



In recent years, high interest rates, inflation, and changing consumer trends have resulted in a tightening of financing options available for restaurants. Lenders often require various forms of collateral for restaurant financing, particularly in assets that hold strong market value and can be resold in case of a borrower default. One increasingly popular solution for restaurateurs is the use of a liquor license as loan collateral. In municipalities like the City of Boston, where liquor licenses are both limited and highly valuable, this approach, known as a "pledge of license," can be mutually beneficial to both restaurateurs and lenders.

While the process is increasingly commonplace, the mechanics of pledging a liquor license as collateral are often misunderstood. Many parties overlook key legal and procedural steps, especially when it comes to properly perfecting a security interest in a liquor license. Even when properly perfected, potential risks remain regarding the security and reliability of the collateral throughout the term of the loan.

Legal Authority for a Pledge of Liquor License

Courts in Massachusetts have historically supported the principle that a liquor license is considered property of the license holder and can be used as collateral, with the Appeals Court holding that a liquor license "had an acknowledged pecuniary value and was descendible and transferable" and such "characteristics gave liquor licenses sufficient intrinsic qualities of property…" *Arrowhead Estates, Inc. v. Boston Licensing Bd*., 15 Mass. App. Ct. 629, 629 (1983).

Massachusetts law specifically authorizes a holder of a liquor license to pledge the license as collateral for a loan. M.G. L. Chapter 138, § 23 states, in relevant part:

"Any license granted under the provisions of this chapter may be pledged by the licensee for a loan, provided approval of such loan and pledge is given by the local licensing authority and the [Alcoholic Beverages Control Commission]."

While there are inherent property interests in a liquor license, a license remains subject to regulation by the local licensing authority or the Alcoholic Beverages Control Commission (ABCC). A pledge of liquor license, even when properly approved and perfected, does not take away a licensing authority's power to suspend, revoke, or regulate the license as they normally would under the law. Regarding the issuance of a pledge of license, Chapter 138, § 23 specifically states:

"Such pledge shall not be construed so as to affect the right of such local licensing authority or the commission to suspend, revoke, or otherwise regulate such license, as provided in

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this chapter."

In some circumstances, the collateral under a secured pledge is less reliable than other secured assets, where a liquor license could be revoked for cause by the licensing authorities or otherwise lost if the licensee fails to renew (an annual requirement, with renewal filings customarily due by November 30 each year). The Massachusetts Supreme Judicial Court has affirmed the notion that a liquor license can be revocable at the discretion of the licensing authority without compensation to the license holder (and, consequently, secured creditor), holding that: "[i]t is possible to acknowledge the power of the Commonwealth or a local licensing authority lawfully to revoke a liquor license without having to pay compensation, while nevertheless recognizing an asset value in possession of such a license." *Commonwealth* v. *Downey*, 12 Mass. App. Ct. 754, 757 (1981).

Despite the potential risks of "vanishing collateral," a pledge of license remains a popular and relatively low-risk option for lenders. In practice, revocations or suspensions by licensing authorities are rare for professional operators and typically occur only in cases of serious violations (i.e., repeated noncompliance, foreseeable injury, harm to the public welfare, criminal activity, etc.). As a result, the risk of losing the liquor license and the collateral under a loan is low for well-managed establishments, which makes it an attractive asset for restaurant financing.

Securing and Perfecting a Pledge of Liquor License

In Massachusetts, the approval and perfection of a valid security interest in a liquor license involves several steps, including approval from the local licensing authority, approval from the ABCC, and compliance with both the Uniform Commercial Code (UCC) filing requirements. Here are the details on each step:

First, the license holder must complete a formal "Pledge of License" retail application, which includes:

1. Information on the identity of the lender and proposed pledge holder;
2. Disclosure of whether the lender holds a liquor license pursuant to M.G.L. Ch. 138;
3. Copies of the executed loan, pledge, and financing documents;
4. Detailed explanation of the form and source of funding being used for the transaction;
5. And other customary application deliverables: completed Monetary Transmittal Form with proof of payment, Certificate of Good Standing from the Department of Revenue, a Certificate of Compliance from the Department of Unemployment Assistance, and a corporate vote of the license holder authorizing the pledge. Each of these items must be accurately completed and submitted to avoid delays in the approval process.

Second, the pledge application needs to be submitted to and approved by the local licensing authority at a public hearing. Depending on the municipality, the local authority may require the license holder to attend and provide information relative to the pledge request.

Third, following the local approval, the municipality will send the application to the ABCC, where it will be assigned to an investigator, reviewed, and approved by the Commissioners.

Fourth, the lender must file a UCC-1 Financing Statement with the Secretary of the Commonwealth and comply with Article 9 of the UCC. This final step is critical in order to perfect the lender's security interest in a liquor license. The filing must include the correct legal name of the debtor, the secured party's information, and a clear description of the collateral. With a pledge of license, it is recommended that the description include the

specific liquor license category (i.e., Sec. 12 "on-premises," Sec. 15 "off-premises," All Alcoholic Beverages vs. Malt/Wine Beverages, etc.) in addition to the state-issued ABCC License Number. The filing must mirror the lender, borrower, and license information set forth in the approved pledge application. This filing can be completed online or by mail. Lenders should bear in mind that, once filed, the financing statement is effective for five years and must be renewed with a UCC-3 Continuation Statement before expiration. Failure to renew may jeopardize the validity of the pledge.

Bankruptcy Courts in Massachusetts have made clear that: (i) compliance with both the UCC and local and state approvals under Chapter 138, § 23 are necessary to create a valid security interest in a liquor license; (ii) dual approval from both the municipality and the ABCC is a statutory condition that must be satisfied in addition to the requirements of Article 9 of the UCC; and (iii) failure to obtain such approval renders the security interest invalid. *See*, generally, *Hillbilly Ranch, Inc. v. Kahn (In re Wible)*, 42 B.R. 622 (Bankr. D. Mass. 1984), where the court rejected the argument that compliance with Article 9 of the UCC alone was sufficient to perfect a liquor license security interest, and reasoned that such a position would undermine the specific pledge approval requirements imposed by Chapter 138, § 23.

The reasoning was further supported in a subsequent matter, where a creditor had complied with the UCC requirements but failed to obtain the licensing approvals, with the court noting that the 1976 amendment to Chapter 138 § 23 created a "limited property right" in liquor licenses, allowing them to be pledged as collateral, but only with the approval of the local licensing authority and the ABCC. *Jojo's 10 Rest., LLC v. Devin Props., LLC, (In re Jojo's 10 Rest., LLC),* 455 B.R. 321, 327 (2011).

Conclusion

While liquor licenses are often used as collateral in Massachusetts, the process involves strict compliance with local and state filing requirements, related approvals, and adherence to UCC Article 9. The hurdles involved in perfecting the security interest and the inherent risk of license revocation remain important factors to be considered, but can be mitigated by thorough preparation, compliant filings, and post-approval diligence.

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