



**Dutchess County Department of
Behavioral & Community Health**

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Sandra L. Winder, Director
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BE IT ENACTED by the County Legislature of the County of Dutchess as follows:

LOCAL LAW NO. 8 OF 1987 AS AMENDED BY LOCAL LAW NO. 2 OF 2011
A LOCAL LAW PROVIDING FOR THE LICENSING OF PRECIOUS METAL AND COIN EXCHANGES

BE IT ENACTED by the County Legislature of the County of Dutchess as follows:

SECTION 1. LEGISLATIVE INTENT

It is the concern of this Legislature that precious metal exchange centers be regulated to protect both the members of the general public as well as the exchange centers themselves.

SECTION 2. DEFINITIONS

(a) "Precious Metal" means gold, silver, platinum and includes coins, utensils, or objects of art containing one or more of these metals. (b) "Precious Metal Exchange" means persons engaged in the business of purchase or exchange of precious metals for other objects of precious metal, for United States currency, bank drafts or other negotiable instruments as defined in the Uniform Commercial Code. Hobbyists, as defined by the applicable provisions of the United States Internal Revenue Code, are specifically excluded. (c) "Precious Metal Exchange Establishment" means any shop, store, residence, place or premises from which a precious metal exchange business is conducted in the County of Dutchess (d) "Local agent for the service of process" means any agency, firm or establishment maintaining a permanent place of business within the County of Dutchess, or any resident of the County of Dutchess. (e) "Commissioner" means the Dutchess County Commissioner of Health.

SECTION 3. GENERAL LICENSE REQUIREMENTS

(a) Every person desiring to engage in any business as a precious metal exchange establishment in the County of Dutchess shall obtain a license therefore from the Commissioner in accordance and subject to, the provisions of this Local Law. (b) Every Licensee shall maintain a regular place of business within the County of Dutchess or designate a local agent for the service of process. (c) A licensee shall display the license obtained pursuant to this Section in the establishment and visible to the general public. If a licensee shall maintain more than one establishment within the County of Dutchess, he shall obtain duplicate licenses, (d) No person who, within 15 years previous to applying for a license, has been convicted of burglary, felony possession of stolen property, grand larceny or forgery shall be eligible for a license. (e) When an application for a license is filed, the Commissioner shall inform the Dutchess County Sheriff of the filing and shall instruct the applicant in the procedure required by the Sheriff to perform a criminal background investigating through the New York State division of Criminal Justice services. The applicant shall comply with all Federal, State and Local requirements necessary to authorize the Sheriff to conduct a criminal history investigating, including fees and consents if necessary. On obtaining the applicant's fingerprints and necessary fees, the Sheriff shall request a criminal history investigation through the New York State Division of Criminal Justice services. On receipt of the investigation, the Sheriff shall inform the commissioner as to whether or not the applicant qualifies for a license pursuant to sub-section "d" of this Section. The contents of the investigation shall not be disclosed by the Sheriff. (f) Regular license shall expire two (2) years from the date of issuance.

SECTION 4. ISSUANCE OF DUPLICATE LICENSE: FEE

If a license hereunder shall be lost, stolen or destroyed, a duplicate may be issued by the Commissioner on: (a) the filing of an affidavit satisfactorily explaining the facts of such loss or theft, and (b) the payment of a \$25.00 fee.

SECTION 5. TEMPORARY LICENSE

(a) The Commissioner may in his discretion issue a temporary license pending satisfaction of application requirements and shall issue a temporary license to any applicant for a precious metal exchange license if he has not, within 30 days after receipt of the application for such license, approved or disapproved such application. (b) The temporary license shall be for a period of 90 days. If within such 90 day period, the Commissioner shall have failed to approve or disapprove the application, the Commissioner shall then issue a regular license to the applicant. If the application is approved during the term of the temporary license, the Commissioner shall issue a regular license to the applicant. (c) The fee for a temporary license shall be \$50.00 (d) A temporary license issued by the Commissioner pending satisfaction of application requirements shall be revoked if the applicant fails to timely comply with all application procedures and requirements.

SECTION 6. FEES

(a) An application fee of \$75.00 shall accompany the application for a precious metal exchange license. (b) The fee for a duplicate license for an additional establishment shall be \$50.00. (c) The fee for renewal of a license shall be \$60.00.

SECTION 7. UNIFORM STANDARD OF MEASUREMENT

An establishment may either purchase metals by weight or may purchase metals with out weight, depending on the individual object. A licensee must prominently display a sign which will notify customers which method of purchase are utilized.

Purchase By Weight: In order to advertise that precious metal exchange establishment purchases precious metals by weight, the establishment must have scales which are approved, tested and sealed by the Commissioner. All scales must be troy weight. In addition, if an establishment is buying precious metals by weight, the establishment must post the current price paid, per unit of weight, and such posted signs shall have numerals of at least 2 inches in size which shall be posted in close visibility of the scale.

Purchase Not By Weight: If a precious metal exchange establishment does not utilize a scale, it must display a sign stating that precious metals are not purchased by weight. Nothing in this Section, however, shall prohibit an establishment which purchases by weight from purchasing an object for more than its value based on its weight.

SECTION 8. RECORDS REQUIRED:

(a) Each licensee shall keep records, legibly written English, in a bound book. Each entry shall be made in ink at the time of each transaction and shall be serially numbered, shall include: (1) An accurate account and description of the object, including but not limited to, the weight (if applicable) and purity of the precious metal (2) The amount paid for the object; (3) the date of the transaction; (4) the name, home residence, date of birth, sex, race and distinguishing features, if any of the seller of the object; (5) the type of identification produced by the person selling the object, including a thumbprint. (b) No alterations or erasures are to be made in said book. Erroneous entries are to have a simple line drawn through them and the corrected entry made on the next line. (c) The book and records shall be retained in the possession of the licensee, in good condition and in an orderly fashion for at least two (2) years. (d) A written receipt shall be issued to the seller with the serial number of the transaction and the information required in subsections "(a)(1)", "(a)(2)" and "(a)(3)" of this Section.

SECTION 9. INSPECTIONS

All records and books required to be kept pursuant to this Local Law shall at be all reasonable times, during regular business hours, be open for inspection by the Commissioner, the Dutchess County Sheriff, the District Attorney, the Troop Commander of the New York State Police within the County, or any police agency or employee duly authorized.

SECTION 10. PROHIBITED ACTS

(a) No person, firm or corporation shall engage in any business, trade or transaction in the County of Dutchess as a precious metal exchange establishment unless licensed in accordance with the provisions of this Local Law. (b) No object, containing precious metal, shall be purchased by a precious metal exchange establishment from: (1) Any person whose judgment appears to be impaired; (2) any person under the age of 18 without the written consent of his parents or guardian; (3) any person who is unable to produce proper and reliable identification. (c) No article or precious metal as defined herein shall have its identification changed by melting or otherwise, nor shall any such article be sold, transferred or exchanged for a period of five (5) business days from the date that such article is acquired by the precious metal exchange. (d) No entity shall organize, procure, present, produce or sponsor any show, exhibit, market or exchange in which precious metals are or may be bought, sold or traded unless such entity has previously advised, in writing, all participants, traders or exhibitors of the license requirements of this Local Law.

SECTION 11. PENALTIES FOR OFFENSES

(a) Failure to comply with this Local Law shall constitute a violation and shall be punishable by a fine not exceeding \$500.00 or by imprisonment for not more than 15 days or both such fine and imprisonment. (b) In addition to the penalty above, any offense against the provisions of this Local Law shall subject the person committing the offense to a civil penalty in the amount of \$500.00 for each time that the offense shall occur collectible by and in the name of the County of Dutchess. (c) Each day or part thereof on which a violation or failure continues, shall constitute a separate violation. (d) If the Commissioner has reason to believe that this Local Law is being violated, he shall promptly investigate the matter. If he finds, after notice to the person accused of the violation and opportunity for such person to be heard, that there has been a violation, the Commissioner shall issue an order directed to the person who has committed the violation directing him to cease and desist from the violation. (e) The Commissioner may bring a proceeding in any court of competent jurisdiction to restrain by injunction violators of his orders or otherwise to enforce such orders or provisions of this Local Law. (f) Any person who shall repeatedly violate, neglect or refuse to comply with any provision or requirement of this Local Law shall in addition or as an alternative to the penalty herein prescribed also be guilty of a Misdemeanor.

SECTION 12. SUSPENSION OR REVOCATION OF LICENSE

(a) **Authority:** The Commissioner, at any time for such cause as after investigation he shall deem sufficient, may suspend or revoke any license granted under the provisions of this Local Law. Violation of any of the prohibitions set forth in Section "10" shall be deemed sufficient cause. (b) **Effect:** Whenever any licenses shall be revoked, no refund shall be made and no license shall be granted to any person whose license has been revoked within a period of two (2) years from the date of such revocation. (c) **Notice:** Notice of the suspension or revocation and the reason therefore in writing shall be served by the Commissioner on the person named in the application by mailing the same to business address given in the application with a copy of such notice to the County Attorney. (d) **Review:** Within twenty (20) business days after service of the notice of suspension or revocation, the licensee may apply to the Commissioner to hear and review the order of suspension or revocation. If so requested, the Commissioner shall hold a hearing and licensee may present evidence on his behalf. Within five (5) days of said hearing, the Commissioner shall either affirm or disaffirm the suspension or revocation of the license issued under this Local Law.

SECTION 13. SEVERABILITY

If any Section of this Local Law of the application thereof to any person or circumstance shall be adjudged invalid by the court of competent jurisdiction such order or judgment shall be confirmed in its operation to the controversy in which it was rendered, and shall not effect or invalidate the remainder of any other provision or any section or the application of any part thereof to any other person or circumstance and to this end, the provisions of each Section of this Law are hereby declared to be severable.

SECTION 14. EFFECTIVE DATE

This Local Law shall take effect immediately upon full compliance with all requisite statutes and laws applicable to its adoption and promulgation.

**ADMINISTERED & ENFORCED BY
THE DUTCHESS COUNTY DEPARTMENT OF BEHAVIORAL & COMMUNITY HEALTH
DIVISION OF WEIGHTS & MEASURES
98 PEACH ROAD
POUGHKEEPSIE, NY 12601**