

Title 27. Transportation

Chapter I. Department of Finance and Administration

Subchapter B. Motor Vehicle, Mobile Home, and ATV

Part 10. Bonded Title Rule

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Pursuant to authority given the Commissioner of Revenues by subsection (b) of section 20 of Act 142 of 1949 (Ark. Code Ann. §27-14-403 (b)), after the effective date of this rule, corporate surety bonds, certificates of deposit with assignment and irrevocable letters of credit which meet the requirements of this rule may be accepted under those circumstances where a bond is authorized under the provisions of subsection (c) of section 1 of Act 1013 of 1993 [Ark. Code Ann. §§27-14-409 (c)]."

"Executed this 23rd day of July, 1993."

Subpart 1. Generally

27 CAR § 10-101. Definitions.

As used in this part:

(1) "Bond" means any corporate surety bond, certificate of deposit, or irrevocable letter of credit:

(A) Approved by the Secretary of the Department of Finance and Administration; and

(B) Given for the purpose of indemnifying any prior owner or lienholder and any subsequent purchaser of a vehicle, or person acquiring any security interest in it, and their respective successors in interest, heirs, or assigns, against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title to the vehicle or on account of any defect in or undisclosed security

interest upon the right, title, and interest of the applicant in and to the vehicle;

(2) "Bonded title" means a certificate of title to a vehicle issued upon the condition that a bond is filed with the Secretary of the Department of Finance and Administration pursuant to Acts 1993, No. 1013, Arkansas Code § 27-14-409(c);

(3) "Insurer" means any:

(A) Person with a valid certificate of authority issued by the Insurance Commissioner which certificate grants the authority to become surety on contracts in the State of Arkansas; or

(B) Other guarantor approved by the Secretary of the Department of Finance and Administration;

(4) "Letter of approval" means a letter issued by the Commissioner to the applicant for bonded title:

(A) Granting approval to:

(i) File a bond; and

(ii) Apply for registration and issuance of a bonded title; and

(B) Establishing the amount of the bond to be filed;

(5) "Statement of fact" means a form prescribed by the Commissioner to be completed by the applicant for bonded title and filed with the Commissioner prior to the filing of a bond, so that a determination can be made as to the eligibility of the applicant for issuance of a bonded title; and

(6)(A) "Vehicle" means any vehicle:

(i) Of a type required to be registered and titled in Arkansas; and

(ii) Which is in the possession of and legally controlled by the

applicant for bonded title.

(B) This definition shall specifically exclude the following:

(i) Vehicles issued a junking certificate, or similarly branded certificate of title, as referenced in Acts 1993, No. 614, § 2(c);

(ii) Vehicles for which a person holds a storage or mechanic's lien under the provisions of Acts 1993, No. 1000, Arkansas Code § 27-50-1201 et seq., or Arkansas Code § 18-45-201 et seq.;

- (iii) Stolen vehicles; and
- (iv) Vehicles involved in ownership litigation.

Authority. Arkansas Code § 27-14-403.

27 CAR § 10-102. Payment guarantee.

After the effective date of this rule, any bond filed pursuant to Acts 1993, No. 1013, Arkansas Code § 27-14-409(c), must guarantee payment for a period of three (3) years from its effective date to any prior owner or lienholder and any subsequent purchaser of a vehicle, or person acquiring any security interest in it, and their respective successors in interest, heirs, or assigns against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title to the vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vehicle.

Authority. Arkansas Code § 27-14-403.

27 CAR § 10-103. Acceptable bonds.

(a) A bond filed pursuant to Acts 1993, No. 1013, Arkansas Code § 27-14-409(c), shall not be accepted unless it:

(1) Is a corporate surety bond, certificate of deposit with assignment, or an irrevocable letter of credit filed with the Commissioner within thirty (30) days from its effective date for an amount equal to one and one-half (1 1/2) times the value of the vehicle as determined by the Commissioner; and

(2) Meets the following requirements:

(A) **Corporate surety bond.** A corporate surety bond shall be:

- (i) On forms approved by the Commissioner;
- (ii) Issued by an insurer;
- (iii) Irrevocable for a period of three (3) years;
- (iv) Signed by the vehicle owner (applicant for bonded title to a

vehicle) and payable to the State of Arkansas upon presentation of a judgment issued by a court of competent jurisdiction as a result of the issuance of a bonded title;

(v) Signed by the insurer or its licensed agent or broker with power of attorney to act on behalf of the insurer and countersigned as otherwise required by law; and

(vi) Delivered to the Commissioner, and accompanied by:

(a) An application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;

(b) A letter from the commissioner granting authorization to apply for a bonded title;

(c) The original power of attorney of the person executing on the behalf of the insurer, if applicable;

(d) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to a vehicle; and

(e) The payment of all requisite fees and taxes for the registration and issuance of a certificate of title to a vehicle;

(B) Certificate of deposit with assignment.

(i) The certificate of deposit and assignment shall both be on forms approved by the commissioner.

(ii) The certificate of deposit shall be:

(a) Signed by the assignor;

(b) Issued by a bank or savings and loan; and

(c) Irrevocable for a period of three (3) years.

(iii) The assignment shall:

(a) Be signed by the assignor;

(b) Be acknowledged by the financial institution;

(c) Contain an irrevocable appointment of the commissioner

which allows him or her to:

(1) Endorse the certificate of deposit; and

(2) Apply the proceeds to any and all valid claims against the bonded title, as determined by a court of competent jurisdiction; and

(d) Provide that the assignment of the certificate of deposit is to be held by the commissioner for a period of three (3) years from the date of delivery to the commissioner;

(iv) The certificate of deposit and assignment shall be:

(a) Delivered to the commissioner; and

(b) Accompanied by:

(1) An application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;

(2) A letter from the commissioner granting authorization to apply for a bonded title;

(3) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to a vehicle; and

(4) The payment of all requisite fees and taxes for the registration and issuance of a certificate of title to a vehicle; and

(C) **Irrevocable letter of credit.** An irrevocable letter of credit shall:

(i) Be in a form as prescribed by the commissioner;

(ii) Be issued by a bank or savings and loan;

(iii) Be an irrevocable letter of credit;

(iv) Be titled or conspicuously state that it is an irrevocable letter of credit;

(v) State that it may be drawn against to satisfy any judgment issued by a court of competent jurisdiction as a result of the issuance of a bonded title;

(vi) State that any draft drawn by the commissioner against the letter of credit is payable upon presentation of a judgment issued by a court of competent jurisdiction as a result of the issuance of a bonded title;

(vii) Be irrevocable for a period of three (3) years from the date it is delivered to the commissioner; and

(viii) Be delivered to the commissioner and accompanied by:

(a) An application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;

(b) A letter from the commissioner granting authorization to apply for a bonded title;

(c) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to a vehicle; and

(d) The payment of all requisite fees and taxes for the registration and issuance of a certificate of title to a vehicle.

Authority. Arkansas Code § 27-14-403.

27 CAR § 10-104. Procedure for applying for issuance of a bonded title.

When a bonded title transaction is received by a state revenue office, the transaction should be examined to ensure that:

(1) The corporate surety bond, certificate of deposit with assignment, or irrevocable letter of credit has been issued for an amount equal to or exceeding the amount determined by the department;

(2) The bond is effective for a period of three (3) years from the date of issuance;

(3) The application for bonded title has been made within thirty (30) days from the effective date of the bond;

(4) An application presented more than thirty (30) days after the effective date of the bond shall not be accepted; and

(5) The vehicle description (year, make, model, vehicle identification number, body style) reflected on the application matches the vehicle description reflected on the bond.

Authority. Arkansas Code § 27-14-403.