

Title 27. Transportation

Chapter I. Department of Finance and Administration

Subchapter B. Motor Vehicle, Mobile Home, and ATV

Part 11. Bonded All-terrain Vehicle Rule

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

"Executed this 17th day of September_, 1993."

Subpart 1. Generally

27 CAR § 11-101. Generally.

Pursuant to authority given the Secretary of the Department of Finance and Administration by Acts 1949, No. 142, § 20(b), Arkansas Code § 27-14-403(b), after the effective date of this part, cash bonds, corporate surety bonds, certificates of deposit with assignment, irrevocable letters of credit, and personal bonds which meet the requirements of this part may be accepted under those circumstances where a bond is authorized under the provisions of Acts 1993, No. 1308, Arkansas Code § 27-20-202.

Authority. Arkansas Code §§ 27-14-403, 27-20-208.

27 CAR § 11-102. Definitions.

As used in this part:

(1)(A) "All-terrain vehicle" means any three-wheeled or four-wheeled all-terrain 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) All-terrain 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.;

(ii) Stolen all-terrain vehicles; and

(iii) All-terrain vehicles involved in ownership litigation;

(2) "Bonded title" means a certificate of title for a three-wheeled or four-wheeled all-terrain cycle issued upon the condition that a bond is filed with the Secretary of the Department of Finance and Administration pursuant to Acts 1993, No. 1308, Arkansas Code § 27-20-202;

(3) "Bond" means any cash bond, corporate surety bond, certificate of deposit with an assignment, or irrevocable letter of credit or personal bond:

(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 an all-terrain 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:

(i) The issuance of the certificate of title to the all-terrain vehicle; or

(ii) On account of defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the all-terrain vehicle;

(4) "Insurer" means any 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 any other guarantor approved by the Secretary of the Department of Finance and Administration;

(5) "Letter of approval" means a letter issued by the Secretary of the Department of Finance and Administration to the applicant for bonded title:

(A) Granting approval to file a bond and apply for registration and issuance of a bonded title; and

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

(6) "Statement of fact" means a form prescribed by the Secretary of the

Department of Finance and Administration to be completed by the applicant for bonded title and filed with the Secretary of the Department of Finance and Administration 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.

Authority. Arkansas Code § 27-20-208.

27 CAR § 11-103. Guarantee of payment.

After the effective date of this part, any bond filed pursuant to Acts 1993, No. 1308, Arkansas Code § 27-20-202, 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 an all-terrain 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:

- (1) The issuance of the certificate of title to the all-terrain vehicle; or
- (2) On account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the all-terrain vehicle.

Authority. Arkansas Code § 27-20-208.

27 CAR § 11-104. Accepted bonds.

A bond filed pursuant to Acts 1993, No. 1308, Arkansas Code § 27-20-202, shall not be accepted unless it is a cash bond, corporate surety bond, certificate of deposit with assignment, or an irrevocable letter of credit or personal bond filed with the Secretary of the Department of Finance and Administration 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 all-terrain vehicle as determined by the secretary, and meets the following requirements:

- (1) **Cash bond.** A cash bond shall be:
 - (A) Cash in United States currency; and

(B) Delivered to the secretary for a period of three (3) years and accompanied by:

- (i) An application for registration to the all-terrain vehicle signed by the owner;
- (ii) A letter from the secretary granting authorization to apply a bonded title;
- (iii) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle; and
- (iv) The payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle;

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

- (A) On forms approved by the secretary;
- (B) Issued by an insurer;
- (C) Irrevocable for a period three (3) years;
- (D) Signed by the all-terrain vehicle owner (applicant for bonded title to an all-terrain 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;
- (E) 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

(F) Delivered to the secretary and accompanied by:

- (i) An application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain vehicle owner;
- (ii) A letter from the secretary granting authorization to apply for a bonded title;
- (iii) The original power of attorney of the person executing on the behalf of the insurer, if applicable;
- (iv) Any additional documentation otherwise necessary to comply with

specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle; and

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

(3) Certificate of deposit with assignment.

(A) The certificate of deposit assignment shall be on forms approved by the secretary.

(B) The certificate of deposit shall be:

- (i) Signed by the assignor;
- (ii) Issued by a bank or savings and loan; and
- (iii) Irrevocable for a period of three (3) years.

(C) The assignment shall:

- (i) Be signed by the assignor;
- (ii) Be acknowledged by the financial institution;
- (iii) Contain an irrevocable appointment of the secretary which allows

him or her to:

(a) Endorse the certificate of deposit; and

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

(iv) Provide the assignment of the certificate of deposit is to be held by the secretary for a period of three (3) years from the date of delivery to the secretary; and

(v) Provide the year, make, model, all-terrain vehicle identification number, and body style of the all-terrain vehicle.

(D) The certificate of deposit and assignment shall be delivered to the secretary and accompanied by:

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

(ii) A letter from the secretary granting authorization to apply for a bonded title;

(iii) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle; and

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

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

(A) Be in a form as prescribed by the secretary;

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

(C) Be an irrevocable letter of credit;

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

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

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

(G) Be delivered to the secretary and accompanied by:

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

(ii) A letter from the secretary granting authorization to apply for a bonded title;

(iii) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle; and

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

(5) **Personal bond.** A personal bond shall:

(A) Be on a form approved by the secretary;

(B) Provide the year, make, model, all-terrain vehicle identification number, and body style of the all-terrain vehicle;

(C) Be signed by the applicant for the all-terrain vehicle registration;

(D)(i) Be signed by at least two (2) persons owning real estate in Arkansas.

(ii) Each signature must be notarized;

(E) Include the following information for the real estate owned and listed by the persons signing the bond in subdivision (5)(D) of this section:

(i) A legal description of the real estate;

(ii) An appraisal done by a certified appraiser within sixty (60) days preceding the application for bonded title; and

(iii) An abstract for the real estate reflecting all liens, mortgages, or other encumbrances and the outstanding balance owed on each; and

(F) Provide that the persons signing the bond obligate themselves, jointly and severally, and the real estate listed to satisfy any claim against the bond established by a judgment issued by a court of competent jurisdiction as a result of the issuance of the bonded title.

Authority. Arkansas Code § 27-20-208.

27 CAR § 11-105. 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 cash bond, corporate surety bond, certificate of deposit with assignment or irrevocable letter of credit, or personal bond has been issued for an amount equal to or exceeding the amount determined by the Department of Finance and Administration;

(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 all-terrain vehicle description (year, make, model, all-terrain vehicle identification number, body style) reflected on the application matches the all-terrain vehicle description reflected on the bond.

Authority. Arkansas Code § 27-20-208.