

ARKANSAS REGISTER

FILED
AR. REGISTER DIV.

93 SEP 17 PM 3:35 Transmittal Sheet



W.J. "BILL" McCuen
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

BY _____

W.J. "BILL" McCuen
Secretary of State
State Capitol
Little Rock, Arkansas 72201-1094

For Office
Use Only:

Effective Date 10/7/93 Code Number 006.05.93--010

Name of Agency Department of Finance & Administration Revenue Div.

Department Revenue Division

Contact Person John H. Theis Telephone 682-7030

Statutory Authority for Promulgating Rules Act 1308 of 1993

27-20-202

Intended
Effective Date

Date

Legal Notice Published

August 25, 1993

☐ Emergency

Final Date for Public Comment N/A

☐ 20 Days
After Filing

Filed With Legislative Council July 26, 1993

Reviewed by Legislative Council Sept. 7, 1993

☐ Other

Adopted by State Agency _____

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance With Act 434 of 1967 As Amended.

A handwritten signature in dark ink, appearing to read 'John H. Theis', is written over a horizontal line.

SIGNATURE

Chief Counsel Revenue

TITLE

September 17, 1993

DATE

REGULATION 1993-7

FILED
AR. REGISTER DIV.
93 SEP 17 PM 3:35

BONDED ALL-TERRAIN VEHICLE REGULATION

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 regulation, cash bonds, corporate surety bonds, certificates of deposit with assignment, irrevocable letters of credit and personal bonds which meet the requirements of this regulation may be accepted under those circumstances where a bond is authorized under the provisions of Act 1308 of 1993 [Ark. Code Ann. §27-20-202].

(1) Definitions:

- (A) "Bond" means any cash bond, corporate surety bond, certificate of deposit with an assignment, or irrevocable letter of credit or personal bond approved by the Commissioner and 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 the issuance of the certificate of title to the all-terrain 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 all-terrain vehicle.
- (B) "Bonded Title" means a certificate of title for a three (3) or four (4) wheeled all-terrain cycle issued upon the condition that a bond is filed with the Commissioner of Revenues pursuant to Act 1308 of 1993 [Ark. Code Ann. §27-20-202].
- (C) "Insurer" means any person with a valid certificate of authority, issued by the Arkansas Insurance Commissioner which certificate grants the authority to become surety on contracts in the State of Arkansas, or any other guarantor approved by the Commissioner of Revenues.
- (D) "All-terrain vehicle" means any three (3) or four (4) wheeled all-terrain vehicle of a type required to be registered and titled in Arkansas, and which is in the possession of and legally controlled by the applicant for bonded title. 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 Act 1000 of 1993, [Arkansas Code Annotated §27-50-

1201, et. seq.], or Arkansas Code Annotated §18-45-201, et. seq.;

(ii) Stolen all-terrain vehicles;

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

(E) "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.

(F) "Letter of approval" means a letter issued by the Commissioner to the applicant for bonded title granting approval to file a bond and apply for registration and issuance of a bonded title, and establishing the amount of the bond to be filed.

(2) After the effective date of this regulation, any bond filed pursuant to Act 1308 of 1993 [Ark. Code Ann. §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 the issuance of the certificate of title to the all-terrain 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 all-terrain vehicle.

(3) A bond filed pursuant to Act 1308 of 1993 [Ark. Code Ann. §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 Commissioner within thirty (30) days from its effective date, for an amount equal to one and one half (1½) times the value of the all-terrain vehicle as determined by the Commissioner, and meets the following requirements:

(A) **Cash Bond.**

A cash bond shall:

(i) be cash in U. S. Currency;

(ii) be delivered to the Commissioner for a period of three (3) years, and accompanied by:

- (a) an application for registration to the all-terrain vehicle signed by the owner;
- (b) a letter from the Commissioner granting authorization to apply 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 an all-terrain vehicle;
- (d) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(B) Corporate Surety Bond.

A corporate surety bond shall:

- (i) be on forms approved by the Commissioner;
- (ii) be issued by an insurer;
- (iii) be irrevocable for a period three (3) years;
- (iv) be 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 judgement issued by a court of competent jurisdiction as a result of the issuance of a bonded title;
- (v) be 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;
- (vi) be delivered to the Commissioner, and accompanied by:
 - (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain 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 an all-terrain vehicle;
- (e) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(C) Certificate of Deposit with Assignment.

- (i) The certificate of deposit assignment shall be on forms approved by the Commissioner.
- (ii) The certificate of deposit shall:
 - (a) be signed by the assignor;
 - (b) be issued by a bank or savings and loan;
 - (c) be irrevocable for a period 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 to endorse the certificate of deposit and apply the proceeds to any and all valid claims against the bonded title, as determined by a court of competent jurisdiction;
 - (e) provide 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.
 - (f) provide the year, make, model, all-terrain vehicle identification number and body style of the all-terrain vehicle.
- (iv) The certificate of deposit and assignment shall be delivered to the Commissioner, and accompanied by:
 - (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain 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 an all-terrain vehicle;
- (d) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(D) 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 by the Commissioner to satisfy any judgement issued by a court of competent jurisdiction as a result of the issuance of a bonded title;
- (vi) be irrevocable for a period of three (3) years from the date it is delivered to the Commissioner;
- (vii) be delivered to the Commissioner, and accompanied by:
 - (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain 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 an all-terrain

vehicle;

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

(E) **Personal Bond.**

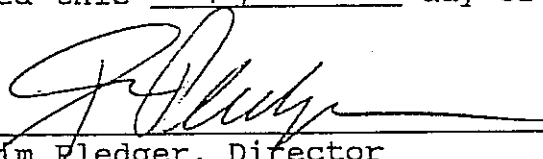
A personal bond shall:

- (i) be on a form approved by the Commissioner;
 - (ii) provide the year, make, model, all-terrain vehicle identification number and body style of the all-terrain vehicle;
 - (iii) be signed by the applicant for the all-terrain vehicle registration;
 - (iv) be signed by at least two (2) persons owning real estate in Arkansas. (each signature must be notarized);
 - (v) include the following information for the real estate owned and listed by the persons signing the bond in subpart (iv);
 - (a) a legal description of the real estate;
 - (b) an appraisal done by a certified appraiser within sixty (60) days preceeding the application for bonded title; and
 - (c) an abstract for the real estate reflecting all liens, mortgages, or other encumbrances and the outstanding balance owed on each.
 - (vi) 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.
- (4) 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:
- (A) 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

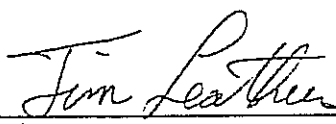
or exceeding the amount determined by the Department.

- (B) The bond is effective for a period of three (3) years from the date of issuance.
- (C) The application for bonded title has been made within 30 days from the effective date of the bond.
- (D) An application presented more than 30 days after the effective date of the bond shall not be accepted.
- (E) 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.

Executed this 17TH day of September, 1993.



Jim Fledger, Director
Arkansas Department of Finance & Administration



Tim Leathers,
Commissioner of Revenues
Arkansas Department of Finance & Administration

STATE OF ARKANSAS
SURETY BOND
FOR ISSUANCE OF AN ALL-TERRAIN VEHICLE CERTIFICATE OF TITLE

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we _____

of _____,

Arkansas, as Principal, and _____
Name of Surety Company

of _____, a corporation incorporated under the laws of the State of
City and State Address of Surety Company

_____ as Surety, are held and firmly bound unto the State of Arkansas, as Obligee, in the sum
Name of State Where Incorporated

of _____ DOLLARS (\$ _____) for the payment of which we bind
ourselves, our heirs, executors, administrators, successors, and assigns, firmly by these presents.

WHEREAS, the principal has made application to the Arkansas Commissioner of Revenues for a Certificate of Title
on a certain all-terrain vehicle described to wit:

YEAR	MAKE	MODEL	BODY STYLE	V.I.N.
------	------	-------	------------	--------

And under the provisions of Arkansas Code Annotated Section 27-20-202 (c), the Commissioner of Revenues is requiring
this bond as a condition for issuance of a Certificate of Title to the principal for the above described vehicle.

IT IS FURTHER UNDERSTOOD AND AGREED that this bond shall be open to successive claims up to the face
value of the bond. To be a valid claim against the bond, the claim must be supported by court judgment in favor of the
claimant, indemnifying the claimant against any expense, loss or damage, including reasonable attorney's fees, incurred
as a result of the issuance of this bonded certificate of title. The Surety shall not be liable for successive claims in excess
of the bond amount, regardless of the number of claims made against the bond for three years from its effective date,
except as noted below.

This bond shall run and be in full force and effect for a period of three (3) years from and after the effective date shown
below and no liability shall accrue after the expiration of the three (3) year period. Upon expiration of said bond, the
Commissioner of Revenues shall return said bond to the Principal, unless said Department has been notified of the
pendency of an action to recover on said bond.

Effective the _____ day of _____, 19_____.

Countersigned by: _____, Principal

_____ By: _____

Arkansas Resident Agent

(Name and Title)

_____ By: _____

Name of Surety Company

(Name and Title)

STATE OF ARKANSAS

PERSONAL BOND
FOR A BONDED TITLE FOR AN ALL-TERRAIN VEHICLE

_____ is applying for a bonded title for an all-terrain vehicle by means of the bonded title procedure on the all-terrain vehicle described as follows:

YEAR_____ MAKE_____ MODEL_____
IDENTIFICATION NO._____ BODY STYLE_____

Ark. Code Ann. §27-20-202 requires that any person making application for registration of an all-terrain vehicle who cannot offer satisfactory proof of ownership must present a properly executed bond.

This bond is irrevocable and shall be in full force and effect for a period of three (3) years from and after the effective date as shown below. Upon expiration of this bond, the Commissioner of Revenues shall return this bond to the applicant, unless the Commissioner has been notified of the pendency of an action to recover on this bond. Any claims pending at the expiration of the three (3) year period may be paid by the Commissioner with proceeds from the bond, if the claim(s) is supported by a judgment in favor of the claimant. All persons signing this bond are obligated, jointly and severally, and pledge the real estate listed to satisfy any claim against the bond established by a judgment issued by a court of competent jurisdiction.

This bond shall not be valid unless signed by at least two (2) persons owning real estate in Arkansas and the following

documentation is attached to this bond:

- (1) a legal description of the real estate;
- (2) an appraisal done by a certified appraiser within sixty (60) days preceding the application for bonded title; and
- (3) an abstract for the real estate reflecting all liens, mortgages or other encumbrances and the outstanding balance owed on each.

Effective this _____ day of _____, 19____.

Name of Applicant

Address

City, State, Zip

Name of Property Owner (1)

Address

City, State, Zip

Name of Property Owner (2)

Address

City, State, Zip

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

On this _____ day of _____, 19____, before me, the undersigned officer, personally appeared _____, [Property Owner (1)], known to me (or satisfactorily proven) to be the person described in the foregoing instrument and acknowledged that she executed the same in the capacity therein contained and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
My Commission Expires:

Notary Public

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF PULASKI)

On this _____ day of _____, 19____, before me, the undersigned officer, personally appeared _____, [Property Owner (2)], known to me (or satisfactorily proven) to be the person described in the foregoing instrument and acknowledged that she executed the same in the capacity therein contained and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.
My Commission Expires:

Notary Public

ASSIGNMENT OF CERTIFICATE OF DEPOSIT

"Name of Title Applicant", is applying for an Arkansas Certificate of Title by means of the bonded title procedure on the herein described all-terrain vehicle:

YEAR _____ MAKE _____ MODEL _____

VEHICLE IDENTIFICATION NO. _____

Ark. Code Ann. §27-14-409 requires said application for certificate of title to include a properly executed bond. This Assignment of Certificate of Deposit shall serve as the required bond. As used herein, the term "bond" shall mean "Assignment of Certificate of Deposit".

Said bond is irrevocable and shall run and be in full force and effect for a period of three years from and after the effective date as shown here below. Upon expiration of said bond, the Commissioner of Revenues shall return said bond to "Owner of C.D.", unless the Commissioner has been notified of the pendency of an action to recover on said bond. Any claim(s) "pending" at the expiration of the three year term may be paid by the Commissioner with proceeds from the bond, if the claim(s) is supported by a judgment in favor of the claimant. The bond shall be open to successive claims.

FOR VALUE RECEIVED, "Owner of C.D.", (hereinafter "Assignor") hereby sells, assigns, and transfers to the Commissioner of Revenues, Department of Finance and Administration for the State of Arkansas, (hereinafter "Assignee") Certificate of Deposit No. _____ # _____ and any and all renewals and extensions therefor standing in the name of Assignor on the records of _____ "BANK" _____ in the principal amount of _____ "BOND AMOUNT" _____ (\$ _____), and hereby irrevocably constitutes and appoints the Commissioner of Revenues of the Department of Finance and Administration for the State of Arkansas, his successors or assigns, attorney in fact, to endorse said Certificate of Deposit in the name of Assignor and to apply the proceeds of said Certificate of Deposit to indemnify any prior owner and lienholder and any subsequent purchaser of the 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 the issuance of the certificate of title of the all-terrain 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 all-terrain vehicle, established by a judgment issued by a court of competent jurisdiction.

This Assignment shall be effective on the ____ day of _____, 19__.

Executed: _____ "DATE" _____

Name of Title Applicant if
Different from Owner of C.D.

OWNER OF C.D.

Address

Address

City, State, Zip

City, State, Zip

ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

On this ____ day of _____, 19____, before me personally appeared "Owner of C.D.", known to me to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires: _____

This is to acknowledge that the undersigned has been notified that "Owner of C.D." has assigned all right in and to Certificate of Deposit # _____ to the Department of Finance and Administration for the State of Arkansas.

DATED: _____

BY: "BANK OFFICER"
"BANK OFFICER'S NAME AND TITLE"
"BANK NAME"
"BANK ADDRESS"

EXAMPLE
LETTER OF CREDIT

Dear Commissioner of Revenues:

We hereby establish our Irrevocable Letter of Credit in favor of the Commissioner of Revenues, Arkansas Department of Finance and Administration for "Name", "Address". This Letter of Credit is effective up to the amount of \$ _____.

_____ "Name" is applying for an Arkansas Certificate of Title by means of the bonded title procedure on the herein described all-terrain vehicle:

YEAR _____ MAKE _____
MODEL _____

VEHICLE IDENTIFICATION NO. _____

Ark. Code Ann. §27-20-202 requires said application for certificate of title to include a properly executed bond. This Letter of Credit shall serve as the required bond. As used herein, the term "bond" shall mean "Letter of Credit".

This bond is irrevocable and shall run and be in full force and effect for a period of three years from and after the effective date as shown here below. Upon expiration of said bond, the Commissioner shall return said bond to _____ "Name" unless the Commissioner has been notified of the pendency of an action to recover on said bond. Any claim(s) "pending" at the expiration of the three year term may be paid by the Commissioner with proceeds from the bond, if the claim(s) is supported by a judgment in favor of the claimant. The bond shall be open to successive claims, but no more than the amount of this bond will be paid, regardless of the number of claims.

The purpose of this bond is to indemnify any prior owner and lienholder and any subsequent purchaser of the 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 the issuance of the certificate of title of the all-terrain 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 all-terrain vehicle, established by a judgment issued by a court of competent jurisdiction. The Commissioner of Revenues only needs to present a copy of the court judgment establishing the claim and this letter for a draft to be paid.

Very truly yours,

Signature & Title of Bank, or
Savings and Loan, Officer

Name of Bank or Savings and Loan: _____

Address: _____

City: _____ STATE _____

ZIP _____

The State of Arkansas

County of _____

Before me, the undersigned authority, in and for said County and State, on this date personally appeared _____

_____ to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal, this ____ day of _____,
A.D. 19____.

Notary Public

in and for _____,
County, Arkansas.