

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**ARKANSAS COMMISSION FOR PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION
RULES GOVERNING PROPERTY INSURANCE REQUIREMENTS
~~July 13, 2007~~**

1.00 REGULATORY AUTHORITY

~~1.01~~—The Arkansas Commission of Public School Academic Facilities and Transportation's authority for promulgating these Rules is ~~pursuant to Ark. Code Ann. §§ 6-21-114, as amended by 2007 Ark. Acts No. 625 and 25-15-201 et seq.~~

2.00 PURPOSE

~~2.01~~—The purpose of these Rules is to establish the process, guidelines, and minimum recommended property, boiler, machinery, and extended coverage insurance requirements for all buildings, structures, facilities, and business personal property owned by a school district.

3.00 DEFINITIONS - For the purpose of these Rules, the following terms mean:

- 3.01 “Actual Cash Value” —~~The~~ means the cost of replacing damaged or destroyed property with comparable new property minus depreciation.
- 3.02 “Agreed Value” —~~The~~ means the specified maximum amount of insurance that will be paid for a building or structure.
- 3.03 “Boiler and Machinery (Equipment Breakdown)” —~~This~~ means the type of coverage that covers loss and damage as a result ~~thereof, resulting from~~ of the malfunction of boilers, ~~and~~ machinery, or both.
- 3.04 “Code Upgrade” —~~See “Ordinance and Law”.~~ means the same as “Ordinance and Law (Code Upgrade)” in Section 3.15 of these Rules.
- 3.05 “Co-Insurance” —~~The~~ means the amount of insurance a district must carry in order to be indemnified for the total dollar amount of the actual loss, ~~;~~ ~~not all policies have a Co-Insurance clause.~~ No public school property eligible to receive facilities assistance listed in Section 4.02 of these Rules will be insured for less than ~~90% of replacement cost~~ full replacement value.
- 3.06 “Deductible” —~~The~~ means the amount of loss paid by the insured per claim.

- 3.07 “Earth Movement (Earthquake)” —This means the type of insurance that provides protection to insured property damaged as a result of earthquake, landslide, rockslide, mudslide, mud flow, earth rising, earth sinking, earth collapsing, or the collapse of sinkholes. This type of insurance coverage may be purchased as an optional coverage.
- 3.08 “Extra Expense” —~~Following means the a covered loss, this type of insurance coverage that, following a covered loss, coverage~~ provides payment for ~~cost~~ costs above normal operating expenses for the facility prior to loss. ~~Example~~ Examples include temporary facilities (portable classrooms), additional transportation costs, and setup and utility costs after a building was damaged or destroyed and rendered unusable by a tornado or fire.
- 3.09 “Flood” —The means the rising, overflowing, or breaking boundaries of rivers, lakes, streams, or similar waterways or man made bodies of water. Insurance coverage for flood damage may be purchased as an optional coverage.
- 3.10 “Instructional Materials” —~~Traditional~~ means traditional books, textbooks, and trade books in printed and bound form; activity-oriented programs that may include manipulatives, ~~hand held calculators; hands on materials; hand-held calculators, or other hands-on materials;~~ and technology-based materials that require the use of electronic equipment in order to be used in the learning process.
- 3.11 “In-Transit” —This means the type of insurance that provides coverage while property is in due course of transit within the boundaries of the policy territory. Examples of items typically covered by this type of insurance coverage are: ~~coverage for~~ band instruments, uniforms, and other school owned property and equipment if damaged or destroyed on an while in transit to an authorized field trip, ~~or school sponsored extra-curricular activity, or other in transit under the authorization of the school district authorized trip~~
- 3.12 “Money and Securities” —This means the type of insurance that provides coverage for losses incurred due to burglary and robbery only, but that does not cover losses incurred due to theft by such means as embezzlement or deception. This type of coverage does not include valuable papers.
- 3.13 “New Construction” —~~Means~~ means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state, ~~of condition,~~ or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's ~~original~~ current condition of completeness or efficiency. “New

construction" includes ~~additions~~ a new addition to an existing academic facilities facility and construction of a new academic facilities facility.

- 3.14 “Newly Acquired Property or Business Personal Property” – This type of insurance coverage is limited to a specified time frame. School districts covered by this type of insurance should inform their insurer fifteen (15) to thirty (30) days prior to accepting new construction from the contractor.
- 3.15 “Ordinance and Law (Code Upgrade)” —~~A means~~ a type of insurance designed to provide sufficient coverage to bring a damaged or destroyed building into compliance with current building code provisions as mandated by the International Building Code that were not in effect when the building was originally constructed, as mandated by the International Building Code.
- 3.16 "Real property" —~~Means~~ means land and anything attached to or erected on it, excluding anything that may be severed without injury to the land.
- 3.17 "School district(s)" —~~A district~~ "A district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code, and which board conducts the daily affairs of public schools within the school district under the supervisory authority vested in it by the General Assembly and Title 6 of the Arkansas Code.
- 3.18 “Stated Value” —~~See~~ means the same as “Agreed Value” in Section 3.02 of these Rules.
- 3.19 “Structures” —~~This term includes~~ include, but ~~is~~ are not limited to, signs, light poles, bleachers, covered walks, and fences.
- 3.20 “Terrorism” —~~Means~~ means activities against persons, organizations, or property that involve the threat or commission of violence or a dangerous act. Insurance coverage for damages caused by acts of terrorism may be purchased as an optional coverage.
- 3.21 “Transit” —~~See~~ means the same as “In Transit” in Section 3.11 of these Rules.
- 3.22 Business Personal Property (Contents) —~~Means~~ means coverage for the school district’s personal property items that are movable and are not attached to the building’s structure. This would include items such as inventory, computers, copiers, furniture, fixtures, library books, musical instruments, athletic equipment, and uniforms, whether or not they are included on the inventory schedule. Not included under this coverage are automobiles, boats, animals, or crops.

4.00 INSURANCE REQUIREMENTS

- 4.01 Each school district shall provide or acquire all Risk property coverage for direct physical loss of or damage to school district buildings, structures, and business personal property (contents).
- 4.02 Each school district shall ensure that coverage shall be provided for all school district buildings, structures, and business personal property at each described location and identified on a statement of values unless otherwise scheduled. Any school district building, structure, or business personal property not insured for at least ~~90% of replacement cost~~ full replacement value shall not be eligible, for purposes of facility assistance, for any state facility funding assistance administered by the Arkansas Commission for Public School Academic Facilities and Transportation.
- 4.03 Coverage extensions for school district buildings, structures, and business personal property shall include the following recommended minimums:
 - 4.03.1 Extra Expense - \$2,000,000 per occurrence;
 - 4.03.2 Law and Ordinance (Code Upgrade) - \$1,000,000 per occurrence;
 - 4.03.3 Property in Transit - \$100,000 per occurrence;
 - 4.03.4 Money and Securities - \$5,000 per occurrence;
 - 4.03.5 Newly Acquired Buildings and Structures for 90 days - \$1,000,000 per occurrence;
 - 4.03.6 Newly Acquired Business Personal Property for 90 days - \$500,000 per occurrence; and
 - 4.03.7 Boiler and Machinery – Broad Form.
- 4.04 Optional coverage shall be considered for:
 - 4.04.1 Earth Movement;
 - 4.04.2 Flood; and
 - 4.04.3 Terrorism
- 4.05 Property, Boiler and Machinery, and Extended Coverage insurers shall have an A.M. Best Rating of A-, Class FSC VIII, or better.

- 4.06 The Bid Requests from school districts to obtain insurance coverage meeting or exceeding the amounts set forth in these Rules shall be mailed to potential bidders at least 45 days prior to the inception date of the policy(s) in compliance with Arkansas state procurement law. *See Ark. Code. Ann. §§ 19-11-101, et seq.*
- 4.07 The following shall be included with the Request for Bid:
- 4.07.1 Detailed Statement of Values, including:
- 4.07.1.1 Building ~~Name~~ name;
- 4.07.1.2 Street ~~Address, City~~ address, city, and zip code ZIP Code;
- 4.07.1.3 Total ~~Square Footage~~ square footage of ~~Each Building~~ each building;
- 4.07.1.4 Building ~~Insured Value~~ insured value;
- 4.07.1.5 Business ~~Property Insured Value~~ property insured value; and
- 4.07.1.6 Effective ~~Date of Policy~~ date of policy;
- 4.07.2 Current ~~Deductible~~ deductible;
- 4.07.3 Loss ~~History~~ history for the past ~~3~~ three (3) years; and
- 4.07.4 Address schedule of all district buildings and structures.
- 4.08 Total insured content values for all of the school district's properties shall equal or exceed twenty percent (20%) of the total building values.
- 4.09 Business Personal Property (Content) values shall be based on the school district's latest inventory of assets, including those items not reported on Arkansas Public School Computer Network, ~~as well as~~ furnishings that fall below the threshold for listing, and as well as expendable items such as instructional materials and food products. This does not include any vehicles licensed for public road use.
- 4.10 School Districts shall comply with insurance "statement of values" reporting requirements to the Division of Public School Academic Facilities and Transportation.

- 4.11 School ~~Districts~~ districts shall provide written assurance from their insurance agent that school district buildings are insured to current replacement costs. ~~As~~, as well as to cover the extension minimums contained in section 4.03 of these Rules. Coverage for extra expense, law and ordinance, etc., as outlined in Section 4.03 of these Rules shall be reviewed, by the school district, to determine what limits, if any, should be increased due to the size of the school district.

Mark-Up DRAFT

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY _____
DIVISION _____
DIVISION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ FAX NO. _____ E-MAIL _____
NAME OF PRESENTER AT COMMITTEE MEETING _____
PRESENTER E-MAIL _____

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule?

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

7. What is the purpose of this proposed rule? Why is it necessary?

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **FAX NO.** _____ **EMAIL:** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

SUMMARY OF AMENDMENTS

COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION RULES GOVERNING PROPERTY INSURANCE REQUIREMENTS

These rules were amended to provide that school district facilities must be insured for full replacement value in order to be eligible to receive state facility funding assistance administered by the CAPSAFT. Because nearly every facility that has applied for state facility funding assistance has carried full replacement value insurance, this amendment merely incorporates current practice. This requirement also advances the prudent and resourceful use of taxpayer dollars.

Other amendments are technical and stylistic, or bring definitions in line with existing rules or law.