

[West's Arkansas Code Annotated](#)

[Title 21. Public Officers and Employees](#)

[Chapter 2. Commission, Oath, and Bond \(Refs & Annos\)](#)

[Subchapter 7. Self-Insured Fidelity Bond Program \(Refs & Annos\)](#)

A.C.A. § 21-2-709

§ 21-2-709. Determination of coverage--Assignment of rights

Effective: August 1, 2023

[Currentness](#)

(a)(1)(A) Upon the receipt of the proof of loss from the Legislative Auditor, the Governmental Bonding Board shall determine whether the loss is covered under the Self-Insured Fidelity Bond Program.

(B) The board may withhold claim determination and a loss payment until the investigation in each case has been completed and all information deemed necessary for determination of coverage under the program has been received.

(2) If the board determines that the loss is covered under the program, then:

(A) The Insurance Commissioner shall authorize fidelity bond loss payments from the Self-Insured Fidelity Bond Trust Fund to the participating governmental entity on a timely basis; and

(B) The board shall:

(i) Provide a timely explanation of a loss payment and a denial of loss to the Legislative Auditor and to the participating governmental entity; and

(ii)(a) Determine whether civil remedies should be pursued to recover the loss.

(b) In making a determination under subdivision (a)(2)(B)(ii)(a) of this section, the board shall consider the cost-effectiveness of pursuing civil remedies.

(3) All vouchers for a loss payment shall include as supporting documents a copy of the payment recommendation by the State Risk Manager and a copy of the proof of loss from the Legislative Auditor.

(4) Any loss payment may be adjusted by any applicable deductible, restitution, or coinsurance payment.

(b)(1)(A) Before any loss payment is paid from the fund, the recipient of the loss payment shall sign and return a transfer of rights form assigning to the program to the extent of the loss payment all rights and claims that the recipient may have against the official, officer, or employee involved.

(B) The program shall be subrogated to all of the rights of the recipients of the loss payment to the extent of the loss payment.

(2)(A) If the participating governmental entity shall sustain any loss that exceeds the amount of indemnity provided by the program, the participating governmental entity shall be entitled to all recoveries, except from suretyship, insurance, reinsurance, security, or indemnity taken by or for the benefit of the program, by whomever made, on account of the loss until fully reimbursed, less the amount of the deductible and coinsurance.

(B) Any remainder shall be applied to reimbursement of the program.

(3) If a participating governmental entity fails to pay over an amount due the program under these provisions, the board may deduct any amount due from future loss payments due the applicable participating governmental entity or from any treasury funds of the applicable participating governmental entity.

#### **Credits**

Acts of 1987, Act 728, § 13; [Acts of 1993, Act 319, § 4](#); [Acts of 2005, Act 506, § 4, eff. March 2, 2005](#); [Acts of 2013, Act 1056, § 2, eff. Aug. 16, 2013](#); [Acts of 2021, Act 367, § 7, eff. July 28, 2021](#); [Acts of 2023, Act 826, § 6, eff. Aug. 1, 2023](#).

A.C.A. § 21-2-709, AR ST § 21-2-709

The constitution and statutes are current through acts of the 2023 Regular Session of the 94th Arkansas General Assembly effective August 1, 2023. Some statute sections may be more current; see credits for details. Also included are changes made by the Arkansas Code Revision Commission received through July 26, 2023.