

## Arkansas Auto Total Loss Threshold by Law

### 2007-8. Salvage, Rebuilt & Parts Only Vehicles

[NOTE: Act 445 of 2009 amended state law to specifically allow an insurance company to obtain a "Parts Only" certificate of title for a motor vehicle that has no resale value except as a source for parts or scrap. Act 445 of 2009 supersedes any provisions of Rule 2007-8 that is contrary to this Act.]

This rule is promulgated by the Director of the Department of Finance and Administration to administer the provisions of Act 410 of 2007 pursuant to the authority of Ark. Code Ann. § 27-14-2301 through Ark. Code Ann. §27-14-2305 as amended by Act 410 of 2007.

#### **1. Definitions.**

For purposes of this rule, unless otherwise required by their context, the following definitions apply:

**A.** "Affidavit of Reconstruction" means a form, prescribed by the Commissioner, which shall be completed by a repairer or rebuilder upon completion of the rebuilding or reconstruction of a damaged motor vehicle and surrendered to the Commissioner by the owner of the rebuilt or reconstructed motor vehicle when making application for registration and issuance of a rebuilt title as defined herein.

**B.** "Commissioner" means the Director of the Department of Finance and Administration acting in his capacity as Commissioner of Motor Vehicles in this state.

**C.** (i) "Dealer" means any person or business who sells or offers for sale a motor vehicle after selling or offering for sale five (5) or more motor vehicles in the previous twelve (12) months or who is a new or used motor vehicle dealer licensed by or with the State of Arkansas.

(ii) Persons or businesses that operate as salvage vehicle pools or salvage vehicle auctions are not dealers for purposes of this rule when selling vehicle parts to a dealer.

**D.** "Declaration of Damage" means a form, prescribed by the Commissioner, which shall be completed by the owner or insurer of a salvage vehicle, as defined herein, which is submitted to the Commissioner by the owner when making application for registration and issuance of a salvage title or, for an insurer not taking title to the salvage vehicle, within 30 days of indemnifying the owner for Loss.

**E.** (i) "Motor vehicle" means every self-propelled vehicle, except motorcycles, motor-driven cycles, and trucks with an unladen weight of ten thousand pounds (10,000 lbs.) or more, in, upon, or by which any person or property is or may be transported upon a street or highway.

(ii) "Motor vehicle" does not include, motorcycles, motor-driven cycles, trucks with an unladen weight of 10,000 pounds or more, any motor vehicle that has been damaged to the extent that it is considered junk under the provisions of Ark. Code Ann. §27-14-913 or for which an Arkansas intent to dismantle form has been submitted or an out-of-state junking certificate has been issued and any motor vehicle that is more than seven (7) model years old prior to the year of occurrence. (Subtracting 8 from the current calendar year will determine the latest model year excluded.)

**F.** "Occurrence" means the event which caused the motor vehicle to become damaged and includes, without limitation, collision, theft, vandalism, storm and flood.

**G.** "Office of Motor Vehicle" or "Office" means the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration.

**H.** "Owner" means an individual, insurance company, or other entity with legal title to the motor vehicle.

**I.** "Parts only title" means an Arkansas certificate of title issued to the owner of a vehicle that has no resale value except as a source for parts or scrap that bears the notation "PARTS ONLY" and "Not for Registration".

**J.** "Rebuilt or reconstructed motor vehicle" means a motor vehicle for which a salvage, damaged, water-damaged, reconstructed, rebuilt or other similar certificate of title has been previously issued and the motor vehicle has been repaired to the extent that it can be licensed for use on the public streets and highways of this state.

**K.** "Rebuilt title" means an Arkansas certificate of title issued to the owner of a rebuilt or reconstructed motor vehicle, as defined herein, that bears the notation "REBUILT" printed in the remarks section on the face of the title.

**L.** "Repairer or Rebuilder" means any person, firm or entity that engages in the repairing, rebuilding or reconstructing of any damaged motor vehicle, as defined in this regulation, whether or not the activity is for profit.

**M.** "Salvage title" means an Arkansas certificate of title issued to the owner of a salvage vehicle, as defined herein, that bears the notation "SALVAGE" printed in the remarks section on the face of the title.

**N.** "Salvage vehicle" means a motor vehicle which is water-damaged as defined in this rule or sustains any other damage in an amount equal to or exceeding seventy percent (70%) of its average retail value, as listed in the most current issue of any pricing guide approved by the Commissioner for use in determining the percentage of the damage.

**O.** "Water-damaged" means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.

## **2. Salvage Title Application Process**

**A.** Any owner of a salvage vehicle, including insurers who acquire ownership of the vehicle through indemnification on an insurance policy, shall, within 30 days after the date of occurrence, surrender to the Commissioner the existing certificate of title along with:

(i) A completed Declaration of Damage form prescribed by the Commissioner and incorporated herein which describes the damage and reflects the extent of the damage to the motor vehicle;

(ii) An application for registration and issuance of a salvage vehicle title

(iii) Any additional documentation required by the Commissioner to comply with specific statutory requirements for registration and issuance of a salvage title;

and

(iv) Payment of all requisite fees and taxes for the registration and issuance of a salvage title.

**B.** Effective January 1, 2008, any person other than an insurer who acquires ownership of a salvage vehicle, as defined in this rule, after the time it becomes a salvage vehicle but prior to the issuance of a salvage title may either:

(i) Apply for a salvage title by surrendering the certificate of title, along with all accompanying documents and fees referenced herein, within 30 days following the date of acquisition of the certificate of title for issuance of a salvage title; or

(ii) Apply for a parts-only title, if the salvage vehicle has no resale value other than as a source for parts or scrap, by surrendering the certificate of title, along with all accompanying documents and fees referenced herein, within 30 days following the date of acquisition of the certificate of title for issuance of a salvage title.

### **3. Issuance of Salvage Titles and Title Notation**

**A.** (i). Owner & Insurer Application. Upon receipt of the certificate of title and accompanying documents and fees referenced in Section 2 of this Rule, the Commissioner shall issue to the owner of a salvage vehicle, including insurers who take ownership through indemnification, a new certificate of title bearing the notation "SALVAGE" in the remarks section on the face of the title.

(ii), Insurer Notification. If a motor vehicle becomes a salvage vehicle and an insurer indemnifies under the insurance policy, but the insurer does not take title to the salvage vehicle, the insurer shall notify the Office that the motor vehicle is a salvage vehicle by submitting a completed Insurer Notification and Declaration of Damage form which is prescribed by the Commissioner and incorporated into this Rule. An insurer's total loss report that lists the damage sustained by the vehicle may be submitted to the Office in lieu of completing Section 5 of the completed Insurer Notification and Declaration of Damage form that requires a description of damage. Upon receipt of the completed Insurer Notification and Declaration of Damage form and the insurers total loss report, if applicable, the Commissioner shall attach a note or stamp identifying the vehicle as a salvage vehicle to any copy of a title issued by the Office or to any reissued or changed title. The note or stamp shall remain in place until the owner of the vehicle surrenders the certificate of title to the salvage vehicle and a salvage vehicle title is issued by the Commissioner.

**B.** In the event that a motor vehicle is rebuilt or reconstructed after the issuance of a salvage title, a rebuilt title may later be substituted for the salvage title if the owner complies with the provisions of this Rule pertaining to the registration and titling of rebuilt or reconstructed vehicles.

### **4. Issuance of Parts Only Titles and Title Notation**

**A.** Any motor vehicle that has been damaged to the extent that it is considered junk, non-repairable or any other similar designation under the provisions of Ark. Code Ann. §27-14-913 and for which an Arkansas Notice of Intent to Dismantle a Motor Vehicle form, prescribed by the Commissioner and

incorporated into this Rule, has been submitted, or for which a junking certificate has been issued by another state shall not be registered in the State of Arkansas.

**B.** Effective January 1, 2008, an Owner of a vehicle considered junk, nonrepairable or any other similar designation may obtain a new certificate of title bearing the notation "PARTS ONLY" and "Not for Registration" by completing and submitting a Request for Parts Only Title Form, to be prescribed by the Commissioner, along with all requisite fees due for issuance of the parts only title along with any additional documentation that may be necessary to comply with the statutory requirements for the issuance of a parts only title.

#### **5. Issuance of Rebuilt Titles and Title Notation**

**A.** When any motor vehicle for which a Salvage title has been issued (or for which a similarly branded or designated title has been issued by another state) is rebuilt or reconstructed, the repairer or rebuilder shall complete and deliver to the owner a signed Affidavit of Reconstruction for a Salvage Vehicle form which is prescribed by the Commissioner and incorporated into this Rule that fully discloses the repairs made to the vehicle and lists all parts and components that were repaired or replaced. The owner or repairer or rebuilder, if that person is the owner, shall acknowledge receipt of the Affidavit of Reconstruction form by signing it in the space provided for the owner's signature.

**B.** The owner or repairer or rebuilder of a salvage vehicle, if that person is the owner, shall, within ten (10) working days, make application to receive a new certificate of title bearing the notation "REBUILT" in the remarks section on the face of the title by surrendering the existing Salvage title to the repaired or reconstructed motor vehicle accompanied by:

- (i) The completed Affidavit of Reconstruction form;
- (ii) An application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;
- (iii) Any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title; and
- (iv) Payment of all requisite fees and taxes.

#### **6. Notation Carried Forward**

The notation of "Salvage," "Rebuilt," "Parts Only" or any other similar designation issued by another state shall be carried forward and printed on the face of all subsequent Arkansas titles issued for the motor vehicle.

#### **7. Taxes**

Pursuant to the provisions of Ark. Code Ann. §27-14-2306, persons licensed by the State of Arkansas as motor vehicle dealers shall not be required to pay gross receipts taxes or compensating use taxes on any motor vehicle they are required to register and title. Pursuant to the provisions of Ark. Code Ann. §26-52-510 and Ark. Code Ann. §27-14-903, persons other than licensed motor vehicle dealers shall pay sales or compensating use tax at registration if the total consideration paid for the motor vehicle is more than the amount set forth in Ark. Code Ann. §26-52-510(b)(1)(B).

## **8. Special Provisions for Insurance Companies.**

**A. Transfer of Possession of Motor Vehicles.** Any insurance company licensed to do business in the State of Arkansas that obtains possession of a motor vehicle as the result of a settlement of an insurance claim, and the motor vehicle has not sustained sufficient damage to require the issuance of a Salvage title or is excluded from the definition of motor vehicle by virtue of its age may dispose of the motor vehicle by reassigning the existing certificate of title assigned to the insurance company by the insured owner and shall not be required to apply for registration and issuance of a title in the name of the insurance company.

**B. Transfer of Possession of Exempt Vehicles.** Any insurance company licensed to do business in the State of Arkansas that obtains possession of exempt motorcycles, motor driven cycles, and trucks with unladen weight of 10,000 pounds or more as the result of a settlement of an insurance claim, and the vehicle is excluded from the definition of motor vehicle may dispose of the vehicle by reassigning the existing certificate of title assigned to the insurance company by the insured owner and shall not be required to apply for registration and issuance of a title in the name of the insurance company.

**C. Insurers having the responsibility under this rule to surrender the certificate of title on a Salvage vehicle for which it has taken title or to notify the Commissioner that a motor vehicle is a Salvage, Rebuilt or Parts Only vehicle may delegate the responsibility of surrendering the certificate of title or of notification to a servicing organization or to any person or entity purchasing the vehicle from the insurer.**

**D. Insurers shall remain responsible under Arkansas law if the servicing organization or purchaser fails to properly surrender the title or notify the Commissioner.**

## **9. Enforcement.**

Pursuant to the provisions of Ark. Code Ann. §27-14-406, §27-14-701 and §27-14-719, failure to abide by the requirements of Ark. Code Ann. §27-14-2301 et seq. and this Rule shall entitle the Commissioner of Motor Vehicles to cancel the existing title to the motor vehicle for cause and take possession of any certificate of title, registration certificate, permit, license, or registration plate issued by it for the motor vehicle.

## **10. Repeal of Damaged Vehicle Title Regulation, Regulation, 1995-4.**

The provisions of Damaged Vehicle Title Regulation, Regulation 1995-4 are hereby repealed.