

Arkansas Insurance Department

Mike Huckabee
Governor



Julie Benafield Bowman
Commissioner

November 17, 2005

BULLETIN NO. 11-2005

TO: ALL LICENSED PROPERTY AND CASUALTY INSURERS, SURPLUS LINES INSURERS, MOTOR CLUBS, TRADE ORGANIZATIONS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

RE: **Reminder of Statutory Requirements Regarding Certificates of Title Upon Payment of Water Damage for Motor Vehicles**

In the wake of the catastrophic property damage occurring during the 2005 and 2004 hurricane seasons, the Department has received information indicating that owners may be selling cars and other vehicles without disclosing the fact that the vehicle has been damaged by water. The purpose of this Bulletin is to remind insurers of the requirements of Arkansas Code Annotated Section 27-14-2301 et seq., which defines "water-damaged" insured motor vehicle for purposes of requiring a "damaged" certificate of title.

Section 27-14-2302 (a) states: *"When a motor vehicle is water-damaged or sustains damage in an amount equal to or exceeding seventy percent (70%) of its average retail value, ...the owner, or insurance company if it obtains ownership of the vehicle through transfer of title as the result of a settlement of an insurance claim, shall forward the properly endorsed certificate of title to the office [Office of Motor Vehicles Division of the Arkansas Department of Finance and Administration] together with a fee in the amount now or hereafter prescribed by law for the registration and issuance of a certificate of title."*

Proper notification to the Office of Motor Vehicles by insurers allows a vehicle title to be identified properly and puts the end purchaser on notice of past vehicle use, defects, damages, and restrictions regarding sale and transferability. This is especially important given the many losses to motor vehicles sustained during the 2004 and 2005 hurricane seasons.

The owner or insurance company, as the case may be, may not dispose of a motor vehicle that is water-damaged before it has obtained a damage certificate from the Office of Motor Vehicles.

Willful violations of these provisions of Arkansas law are punishable as misdemeanors. (See Ark. Code Ann. § 27-14-2304). In addition, the Department may take administrative action, as it may deem necessary, against licensed insurers violating these requirements.

Questions concerning this Bulletin should be directed to the Arkansas Insurance Department Legal Division at 501-371-2820 or e-mail to Legal.Division@arkansas.gov.

For more information on flood-damaged vehicles, see the Consumer Alert of September 23, 2005, issued by the Consumer Protection Division of the Arkansas Attorney General's Office. The Consumer Alert entitled "Attorney General Warns Arkansans of Flood Damaged Vehicles" can be found at www.ag.state.ar.us. Interested persons can also visit www.NICB.org to search the National Insurance Crime Bureau's database for vehicles and watercraft affected by Hurricanes Katrina and Rita.

(signed by Julie Benafield Bowman)

(November 17, 2005)

JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS

DATE