



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

September 22, 1975

75-338

BRUCE E. BABBITT
ATTORNEY GENERAL

(R75-303)

Mr. Thomas M. Bulman
State Insurance Officer
Risk Management Services
State Capitol
Phoenix, Arizona 85007

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ARIZONA ATTORNEY GENERAL

Dear Mr. Bulman:

This is in answer to your request on whether the self-insurance program covers a theft of cash from the Corporation Commission.

You have advised us that the Corporation Commission was the victim of a theft of \$135.00 and that the loss was not covered under any insurance policy in existence on the date of the loss.

For reasons that appear below, A.R.S. §§ 41-621 and 41-622, the self-insurance statutes, provide coverage for this loss.

The self-insurance statutes, A.R.S. §§ 41-621 and 41-622, as amended on April 24, 1975, provide:

The department of administration may determine, in the best interests of the state, that state self insurance is necessary or desirable and may provide for state self insurance for damages for injury, sickness, disease or death against a state owned medical facility or a physician or surgeon employed by the state and who is authorized to act in such capacity up to a maximum of one million dollars for any one loss, with no limitations on the number of losses. If the department of administration provides state self insurance, the insurance coverage shall be secondary coverage for any loss which is covered by an insurance agreement required by subsection A of this section and which insurance agreement is in effect at the time of such loss.



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The department of administration shall provide or obtain and pay for claims processing costs including adjusting costs, legal defense costs and attorneys' fees for any portion of claims falling within state self-insurance limits or deductible limits pursuant to provisions of this chapter. A.R.S. § 41-621.B.

A. There is established a permanent uninsured loss coverage revolving fund in the department of administration for the payment of uninsured losses and all claims, defense costs and other expenses included within state self-insurance programs as determined by the department pursuant to § 41-621, subsection B. Departments, agencies, boards or commissions of this state may apply for monies therefrom to reimburse any uninsured property losses suffered by such departments, agencies, boards or commissions which are deemed proper by the director of the department of administration as claims for payment from the revolving fund. The director of the department of administration, subject to the provisions of § 41-730, is authorized to disburse monies to contractors who rebuild state property as a result of uninsured losses or to persons who supply goods or services in replacing uninsured losses.

B. All monies recovered by the state, whether pursuant to litigation, recovery of proportionate share monies from any other existing state funds, or otherwise, for damages relating to an uninsured loss for which monies from the revolving fund have been paid shall be deposited in the revolving fund.

C. All monies deposited in the revolving fund are appropriated to the department of administration for use as provided in this section and shall be exempt from the provisions of § 35-190, relating to lapsing of appropriations. A.R.S. § 41-622 [Emphasis supplied]

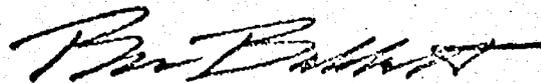
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The only provisions of the self-insurance statutes that appear to provide coverage for a loss from theft of money are the first sentence of A.R.S. § 41-622.A, which says that the uninsured loss coverage revolving fund was established to pay for uninsured losses, and the second sentence of A.R.S. § 41-622.A, which says that state departments, agencies, boards and commissions may apply for reimbursement from the fund for "uninsured property losses" suffered by them as deemed proper by the Director of the Department of Administration.

Under some limited circumstances, courts have held that money is not property; however, the rule that appears applicable to your question is stated in 54 Am. Jur. 2d Money § 3: "Money in any form is generally regarded and treated as property". Therefore, if a theft of money is a loss deemed proper by the Director of the Department of Administration as a claim for payment from the revolving fund, the loss of money by theft for payment from the revolving fund, the loss of money by theft may be reimbursed to the Corporation Commission from the uninsured loss coverage revolving fund.

The opinion of the Attorney General dated April 22, 1974, which also considered whether the loss of money was reimbursable from the uninsured loss coverage revolving fund, is no longer applicable as a result of significant statutory changes that became effective after the opinion was issued. See Laws 1974, Chapter 205.

Sincerely,



BRUCE E. BABBITT
Attorney General

BEB:FWS:nms