



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 19, 2025

Stephanie Morris-Harris, Esq.
Attorney, Bolivar County Board of Supervisors
Post Office Box 698
Cleveland, Mississippi 38732

Re: Surplus Insurance Proceeds

Dear Ms. Morris-Harris:

The Office of the Attorney General has received your request for an official opinion.

Background

Bolivar County (“County”) owns a facility, covered by an insurance policy, that was damaged. The County filed a claim under the insurance policy, and funds were paid to the County for repairs. Once full repairs were made to the covered facility, surplus insurance proceeds were left over.

Questions Presented

Does the Bolivar County Board of Supervisors (“Board”) have the authority to deposit the surplus insurance proceeds into its general fund for general county purposes, or must the Board only use the surplus insurance proceeds towards the repair, maintenance, or improvement of the covered facility?

Brief Response

The Board does not have the authority to deposit the surplus insurance proceeds into the county general fund.

Applicable Law and Discussion

As an initial matter, the Office of the Attorney General is authorized to issue opinions on prospective questions of state law only, in accordance with Mississippi Code Annotated Section 7-5-25. Our office “cannot by official opinion interpret the terms or provisions of an agreement or

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contract or infer facts that may be relevant to our opinion.” See MS AG Op. *Welch* at *1 (June 23, 2021). For further guidance on any applicable provisions of the County’s insurance policy, we refer the Board to its property insurance carrier.

Section 19-7-7 authorizes counties to insure certain public property, including county-owned buildings, against loss. The Mississippi Supreme Court interprets Section 19-7-7 such that insurance proceeds are not a part of the county general fund but instead are “a trust fund, to be used only for the purpose of replacing the property destroyed, so long as the county stands in need of the thing so destroyed.” *Adams v. Helms*, 48 So. 290, 291 (Miss. 1909).

Therefore, state law dictates that the Board must maintain the insurance proceeds in trust for the repair, maintenance, and improvement of the covered facility.

For further guidance regarding the proper expenditure of public funds, we refer you to the Technical Assistance Division of the Department of Audit.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Caleb A. Pracht*

Caleb A. Pracht

Special Assistant Attorney General

OFFICIAL OPINION