



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

October 2, 2023

The Honorable Bill Rasco
Sheriff, DeSoto County
3091 Industrial Drive West
Hernando, Mississippi 38632

Re: Bail Bonds and the Uniform Electronic Transactions Act

Dear Sheriff Rasco:

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

Question Presented

Are bail bonds considered “court documents” to be excluded from the provisions of the Uniform Electronic Transactions Act pursuant to Mississippi Code Annotated Section 75-12-5(b)(4)?

Brief Response

Yes, a bail bond is a court document as set forth in Section 75-12-5(b)(4) and thus excluded from the provisions of the Uniform Electronic Transactions Act.

Applicable Law and Discussion

The Uniform Electronic Transactions Act (“UETA”), Sections 75-12-1 *et seq.*, “facilitate[s] electronic transactions consistent with other applicable law” in an effort “[t]o be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and [t]o effectuate its general purpose to make uniform the law [concerning electronic transactions] among states enacting it.” Miss. Code Ann. § 75-12-11. Consequently, the UETA generally applies “to electronic records and electronic signatures relating to a transaction.” Miss. Code Ann. § 75-12-5(a). However, pursuant to Section 75-12-5(b)(4), “[t]he provisions of [the UETA] *shall not apply* to court orders or notices, or official court documents (including briefs, pleadings and other writings) required to be executed in connection with court proceedings.” (emphasis added).

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You ask if bail bonds are considered “court documents” to be excluded from the provisions of the UETA pursuant to Section 75-12-5(b)(4). Section 9-1-51(e) defines “[d]ocuments, court records, or court-related records” as “includ[ing], but not . . . limited to, all contents in the file or record of any case or matter docketed by the court, administrative orders, court minutes, court dockets and ledgers, and other documents, instruments or papers required by law to be filed with the court.” (internal quotations omitted). According to *Black’s Law Dictionary*, a bail bond is “[a] bond given to a court by a criminal defendant’s surety to guarantee that the defendant will duly appear in court in the future and, if the defendant is jailed, to obtain the defendant’s release from confinement.” BAIL BOND, BLACK’S LAW DICTIONARY (11th ed. 2019). Thus, bail bonds fall within the statutory definition provided in Section 9-1-51(e). *See also* Miss. Code Ann. § 99-5-17 (“It is the duty of the sheriff taking a bail-bond to return the same to the clerk of the circuit court of the county in which the offense is alleged to have been committed”); *but see* Miss. Code Ann. § 99-5-23 (“It shall not be an objection to any bail-bond or recognizance that it is in the form of an acknowledgment before a court or officer and is without the signature of any person, or is without the indorsement of approval by any officer”). Because bail bonds fall within the statutory definition of Section 9-1-51(e), it is the opinion of this office that a bail bond is a “court document” as set forth in Section 75-12-5(b)(4) and is thus excluded from the UETA.

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/ Maggie Kate Bobo

Maggie Kate Bobo
Special Assistant Attorney General