



2014-052

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

April 9, 2014

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Carl E. Chamblee, Jr.
Municipal Judge, Trussville Municipal Court
Post Office Box 159
Trussville, Alabama 35173

Municipalities – Municipal Courts – Bonds
– Credit Cards – Jefferson County

The Municipal Court for the City of Trussville may accept credit cards for payment of cash bail subject to the authorization of the governing body of the municipality. The agreement with credit card issuers, surcharges, and liability for final payment must comply with the requirements set forth in sections 11-103-1 through 11-103-5 of the Code of Alabama.

Dear Judge Chamblee:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May the Municipal Court for the City of Trussville ("Court") accept payment via a credit card for bail?

FACTS AND ANALYSIS

According to your request, the Court accepts credit cards for payment of fines and costs associated with cases within its jurisdiction. You inquire as to whether credit cards may also be accepted for the posting of cash bail. Under the suggested procedure set forth in your request, a person arrested would cause a charge against his or her credit card payable to a vendor who would directly

deposit the appropriate amount into the Court. The deposit would be immediate, and the Court would hold the funds pending disposition of the case, even if the credit card charge is rejected or declined.

In Alabama, there are four kinds of bail: judicial public bail, property bail, professional surety bail, and cash bail. ALA. CODE § 15-13-111 (2011). “Cash bail” is defined as follows:

Cash bail is when the *defendant or some person on behalf of the defendant deposits cash* in an amount equal to a part or the total sum of the bail as set by the judicial officer *to the clerk of the court* having jurisdiction over the case. *Acceptance of cash bail shall conform to [section 15-13-158 of the Code of Alabama].*

ALA. CODE § 15-13-111(1) (2011) (emphasis added).

Section 15-13-158 of the Code of Alabama states as follows:

At any time after an order admitting a defendant to bail, the defendant or *another person may deposit with the clerk of the court* in which the defendant is held to answer, or the court's designee, the sum mentioned in the order in cash. A receipt of the moneys issued by the clerk or the court's designee shall be provided to the person posting the cash bail. A release shall be issued for the defendant and the defendant shall be discharged from custody.

ALA. CODE § 15-13-158 (2011) (emphasis added).

Moreover, section 11-103-1 of the Code permits the governing bodies of municipalities to authorize its offices, departments, agencies, boards, and commissions to accept credit cards for “any payments made” to the municipality. ALA. CODE § 11-103-1(a) (2008). This authorization is to “be construed to allow the acceptance of credit card payments for any types of amounts payable to a . . . municipality as authorized by the . . . municipal governing body” ALA. CODE § 11-103-1(b) (2008). The agreement with credit card issuers, surcharges, and liability for final payment must comply with the additional requirements of the Code. ALA. CODE §§ 11-103-1 to 11-103-5 (2008).

Honorable Carl E. Chamblee, Jr.
Page 3

It should also be noted that various provisions of law prohibit courts from accepting credit cards for certain types of payments, including judgments, restitution, attorney fees, child support, alimony, and moneys ordered to be paid to a third party. ALA. CODE § 12-19-290(d) (2012) & ALA. R. JUD. ADMIN. 41(A). These provisions, however, do not specifically prohibit payments for cash bail. Accordingly, a municipality may accept credit cards for payment of cash bail.

CONCLUSION

The Municipal Court for the City of Trussville may accept credit cards for payment of cash bail subject to the authorization of the governing body of the municipality. The agreement with credit card issuers, surcharges, and liability for final payment must comply with the requirements set forth in sections 11-103-1 through 11-103-5 of the Code.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

LS/BB
1722848/176847