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Opinion No. 03-050

Bail Bond Secured by Real Estate

QUESTION

May the District Attorney General or Sheriff reject a property bond offered to secure a bail bond that has been certified by the Circuit Court Clerk if the value of the real property is less than one-half of the amount of the bond?

OPINION

Yes. The District Attorney General or Sheriff may reject the property bond if it is for real estate valued at less than one and one-half times the amount of bail set.

ANALYSIS

Under Tenn. Code Ann. § 40-11-122 a bail bond may be secured by real estate situated in the State of Tennessee. The statute specifies that the real estate must be worth one and one-half (1½) times the amount of bail set.

Accordingly, if the defendant's bail is set at $100,000, real estate offered to secure the bail bond under Tenn. Code Ann. § 40-11-122 must be worth $150,000. A deed of trust offered as security on a bail bond that does not satisfy this statutory requirement must be rejected by the Circuit Court Clerk, Sheriff, or Judicial Commissioner, as appropriate.

Under Tenn. Code Ann. § 40-11-106 a surety that ***meets the requirements of Tenn. Code Ann. § 40-11-122(1)*** is deemed sufficient if it is certified by the appropriate Circuit Court Clerk. In this case, the Circuit Court Clerk certified a deed of trust that is plainly insufficient under the statute. The surety, therefore, is not deemed sufficient and may be rejected by the sheriff or judicial commissioner. *See* Tenn. Code Ann. § 40-11-106 (giving authority to sheriff or judicial commissioner to determine the sufficiency of the surety and the validity of the bond).

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