



## Ohio Revised Code

### Section 9.02 Inspection and review of financial institution records.

Effective: September 26, 1996

Legislation: Senate Bill 293 - 121st General Assembly

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(A) As used in this section:

(1) "Customer" means any person or authorized representative of that person who has maintained or is maintaining an account or deposit of any type, or has utilized or is utilizing any service of a financial institution, or for whom a financial institution has acted or is acting as a fiduciary in relation to an account or deposit maintained in the person's name.

(2) "Governmental authority" includes the state, any political subdivision, district, or court, and any agency, department, officer, or authorized employee of any of those entities.

(3) "Financial institution" means any bank, building and loan association, trust company, credit union, licensee as defined in section 1321.01, or registrant as defined in section 1321.51 of the Revised Code.

(4) "Financial record" means any record, including statements or receipts, and checks, drafts, or similar instruments, or information derived from such record, that is maintained by a financial institution and that pertains to a deposit or account of a customer, a service of the financial institution utilized by a customer, or any other relationship between a customer and the financial institution.

(5) "Supervisory review" means any examination of or other supervisory action with respect to a financial institution, where such examination or action is conducted or taken pursuant to authority granted under the Revised Code, or rules promulgated pursuant thereto by the agency having regulatory jurisdiction over such institution.

(B) Any party, including a governmental authority, that requires or requests a financial institution to assemble or provide a customer's financial records in connection with any investigation, action, or proceeding shall pay the financial institution for all actual and necessary costs directly incurred in searching for, reproducing, or transporting these records, if the financial institution is not a party to



the investigation, action, or proceeding, is not a subject of supervisory review in the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding of assets of another party defendant, with no cause of action alleged against the financial institution. This payment shall be made to the financial institution promptly, whether or not the financial records are entered into evidence. If the records are produced pursuant to a court order or subpoena duces tecum, the party requesting the order or subpoena is responsible for making the payment. With respect to any judicial or administrative proceeding for which the records are requested, payment of these costs shall be in addition to any witness fees.

(C) The rates and conditions for making payments required by division (B) of this section shall be established by rule by the superintendent of financial institutions. To the extent that they are applicable, such respective rules shall be substantially like those adopted by the board of governors of the federal reserve system to regulate similar fees required by the "Right to Financial Privacy Act of 1978," 92 Stat. 3708, 12 U.S.C.A. 3415.

(D)(1) This section is not intended to expand, limit, or otherwise affect any authority granted under federal law or the law of this state to any party, including a governmental authority, to procure, request, or require a customer's financial records. This section does not apply to investigations or examinations conducted under authority granted by Chapter 169., 1707., 3737., or 4735. of the Revised Code.

(2) Division (B) of this section does not apply to financial records required to be assembled or provided pursuant to a subpoena issued by or on motion of a prosecuting attorney who has probable cause to believe that a crime has been committed or a grand jury, if all of the following apply:

(a) The financial records or copies of the financial records are subpoenaed for purposes of a criminal investigation or prosecution;

(b) The subpoena is delivered to the financial institution at least ten days before the records are to be provided;

(c) The subpoena identifies individual items to be provided or is for statements of the customer's account for a specified period of time but only as is relevant to the possible crime being investigated.



If any financial record assembled or provided by a financial institution pursuant to such a subpoena or any information derived from the financial record is introduced as evidence in any criminal trial and if any nonindigent defendant is convicted of an offense at that trial, the trial court shall charge against the defendant, as a cost of prosecution, all actual and necessary costs directly incurred by the financial institution in searching for, reproducing, or transporting the financial records provided the financial institution is not a defendant at the trial. A defendant against whom costs are charged pursuant to this division shall pay the costs to the court which shall forward the payment to the financial institution. For purposes of this division, the trial court shall determine whether a defendant is indigent. The rates of payment established by rule pursuant to division (C) of this section shall be used by the trial court in charging costs under this division.

(E) Notwithstanding division (D) of this section, in any proceeding, action, or investigation that involves an alleged violation of section 2921.02, 2921.41, 2921.42, or 2921.43 of the Revised Code, that either involves a property interest of the state or occurred within the scope of state employment or during the performance of a state public official's or state public servant's duties, and in which a financial institution is required or requested to assemble or provide financial records, the financial institution has a right of reimbursement from the state treasury for all actual and necessary costs incurred in searching for, reproducing, or transporting the financial records, at the rates established by rule under division (C) of this section. The reimbursement shall be made only if the financial institution is not a party to, or subject of the investigation, action, or proceeding, or is a party to the investigation, action, or proceeding solely by reason of its holding assets of another party defendant, with no cause of action alleged against the financial institution, and only if the financial institution has not acted negligently in the management of the deposit, account, service, or other relationship to which those financial records pertain. The reimbursement shall be made promptly, whether or not the financial records are entered into evidence. As used in this division, "state" means only the state of Ohio and does not include any political subdivision.