

1301:8-1-02 Reimbursement to small loan licensees and second mortgage registrants for assembling or providing financial records.

This rule is issued by the superintendent of financial institutions pursuant to division (C) of section 9.02 of the Revised Code. It establishes the rates and conditions for reimbursement of actual and necessary costs directly incurred by licensees, as defined in section 1321.01 of the Revised Code, ~~and registrants, as defined in section 1321.51 of the Revised Code, and mortgage lenders registered under Chapter. 1322 of the Revised Code,~~ in assembling or providing customer financial records to any party.

(A) Except as provided in this rule or in section 9.02 of the Revised Code, any party, including a governmental authority, that requires or requests a licensee or registrant to assemble or provide a customer's financial records shall pay the licensee or registrant for all actual and necessary costs directly incurred in searching for, reproducing, or transporting these records according to the following schedule:

(1) Search and processing costs. Reimbursement of search and processing costs shall be the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging, and preparing financial records for shipment. The rate for search and processing costs is twenty-two dollars per hour per person, computed on the basis of five dollars and fifty cents per quarter hour or fraction thereof, and thirty dollars per hour per person for managerial or supervisory personnel, computed on the basis of seven dollars and fifty cents per quarter or fraction thereof, and is limited to the total amount of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a party. Specific salaries of such persons shall not be included in search costs. In addition, search and processing costs do not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search and processing costs may include the actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in this paragraph.

(2) Reproduction costs. Reimbursement for reproduction costs shall be for costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of required or requested documents is as follows:

(a) Twenty-five cents per page for photocopies;

(b) Twenty-five cents per page for paper copies of microfiche;

(c) Fifty cents per microfiche for duplicate microfiche; and

(d) Actual cost for each computer diskette or compact disk, or other storage media.

(3) Transportation costs. Reimbursement for transportation costs shall be for necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested; and necessary costs, directly incurred solely by the need to convey the required or requested material to the place of examination.

(B) A licensee or registrant is not entitled to reimbursement under this rule for costs incurred in assembling or providing the following records or information:

(1) Security interest, bankruptcy claims, debt collection. Any financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing to the licensee or registrant.

(2) Nonidentifiable information. Financial records that are not identified with or identifiable as being derived from the financial records of a particular customer.

(3) Financial institution regulatory authorities. Financial records disclosed to a financial institution regulatory authority in the exercise of its supervisory or regulatory functions with respect to the financial institution.

(C) Payment shall be limited to material required or requested. Payment shall be made only for costs that are directly incurred, actual, and necessary. No payment must be made until the licensee or registrant satisfactorily complies with the request or requirement, except that in the case where the request or requirement is withdrawn or revoked, the licensee or registrant shall be reimbursed for the actual and necessary costs directly incurred in assembling financial records required or requested to be produced prior to the time the party notifies the licensee or registrant that the request or requirement is withdrawn or revoked. No payment must be made unless the licensee or registrant submits an itemized bill or invoice showing specific details concerning search and processing, reproduction, and transportation costs.

(D) For the purposes of this rule, the term "costs directly incurred" means costs incurred solely and necessarily as a consequence of searching for, reproducing, or transporting books, papers, records, or other data, in order to comply with a request or requirement to produce a customer's financial records. The term does not include any allocation of fixed costs (overhead, equipment, depreciation, etc.). If a licensee or registrant has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the licensee or registrant.

(E) Where terms used in this rule are defined in section 9.02 of the Revised Code, they shall have the meaning set forth in that section.