



Ohio Revised Code

Section 1321.07 Annual examination of licensee - fees and mileage of sheriff and witnesses - subpoena.

Effective: July 1, 2009

Legislation: House Bill 525 - 127th General Assembly

At least once each year the division of financial institutions shall make an examination of the business, loans, books, papers, and records of each licensee so far as they pertain to the licensed business, and it may make such an examination more frequently if it is necessary for the proper administration of sections 1321.01 to 1321.19 of the Revised Code.

For the purpose of discovering violations, the division may at any time investigate the business and examine the books, accounts, papers, and records used therein, of:

(A) Licensees;

(B) Other persons engaged in the business described in section 1321.02 of the Revised Code or participating in such business as principal, agent, broker, or otherwise;

(C) Any person whom the division has reasonable cause to believe has violated, is violating, or is about to violate sections 1321.01 to 1321.19 of the Revised Code, whether or not the person claims to act under such sections. For the purpose of this section, any person who advertises, solicits, or holds self out as willing to make, find, or arrange for another person to make loan transactions in the amount or of the value of five thousand dollars or less, is presumed to be engaged in the business described in the first paragraph of section 1321.02 of the Revised Code.

For the purpose of this section, the division shall have and be given free access to the offices and places of business, files, safes, and vaults of all such persons, and may require the attendance of, and examine under oath, any person relative to such loans or such business or to the subject matter of any examination, investigation, or hearing. The division may require the attendance of such witnesses and the production of such books, records, and papers, as may be required either by the division or by any party to a hearing before the division, and for that purpose may issue a subpoena for any witness or a subpoena duces tecum, to compel the production of any books, records, or



papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in criminal cases is served and returned.

The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the funds of the division. No witness subpoenaed at the instance of parties other than the division is entitled to compensation from the state for attendance or travel unless the division certifies that the witness' testimony was material to the subject matter of the hearing.

If any person fails to file any statement or report, or fails to obey any subpoena, or to give testimony, or to answer questions, or to produce any books, records, documents, accounts, or papers as required by the division under sections 1321.01 to 1321.19 of the Revised Code, any court of common pleas, upon application made to it and upon proof being made of such failure, may make an order awarding process of subpoena or subpoena duces tecum out of the court for such witness to appear and testify before the division, and may make an order that any person give testimony and answer questions as required, and produce books, records, documents, accounts, or papers as required. Upon filing such order with the clerk of the court of common pleas, the clerk shall, under the seal of the court, issue process of subpoena to appear before the division at a time and place named therein, and so from day to day until the examination of such person is completed. The subpoena may contain a direction that such witness bring to such examination any books, records, documents, accounts, or papers therein mentioned, and the clerk shall issue, under the seal of the court, such other or further orders in reference to the examination, appearance, and production of books, records, documents, accounts, or papers as the court directs. If any person so summoned by subpoena issued by the clerk fails to obey the subpoena or to answer any directions therein, or to give testimony, or to answer questions as required, or to produce any books, records, documents, accounts, or papers as required, or if any such person fails to obey any order, the court, on motion supported by proof, may order an attachment for contempt to be issued against any person charged with disobeying any order or injunction issued out of the court of common pleas under sections 1321.01 to 1321.19 of the Revised Code. If the person so offending is brought before the court by virtue of such attachment, and if upon a hearing such disobedience appears, the court may order the offender to be committed and kept in close custody until the further order of the court.