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HOUSE BILL NO. 1020

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding in Chapter 14 of Title 8.01 an article numbered 7.2, consisting of sections numbered 8.01-413.2 and 8.01-413.3, relating to records of financial institutions.*

Patron—Adams, L.R.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 14 of Title 8.01 an article numbered 7.2, consisting of sections numbered 8.01-413.2 and 8.01-413.3, as follows:

*Article 7.2.**Financial Institution Evidence.***§ 8.01-413.2. Definitions.**

As used in this article, unless the context requires a different meaning:

"Financial institution" has the same meaning as prescribed to it in § 6.2-100.

"Governmental unit" means the United States, the Commonwealth, and any political subdivision thereof.

§ 8.01-413.3. Records of financial institutions.

A. A person, other than a governmental unit, who is a party to an action and is seeking discovery or production of evidence as permitted by and pursuant to the Rules of Supreme Court of Virginia, any other law of the Commonwealth, or the Federal Rules of Civil Procedure requiring or requesting access to financial records pertaining to a customer of the financial institution shall pay to the financial institution that assembles or provides the financial records a fee for reimbursement of reasonably necessary costs, directly incurred, as follows:

1. Reimbursement of search and processing costs, including the total amount of personnel direct time incurred in locating and retrieving, reproducing, and packaging and preparing financial records for shipment, and costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. 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.

2. Reimbursement for reproduction costs incurred in making copies of documents required or requested. The rate for reproduction costs for making copies of required or requested documents shall be the institution's usual rate charged to its customers for reproducing copies, including copies produced by reader-printer reproduction processes. Photographs, films, and other materials shall be reimbursed at actual cost.

3. Reimbursement of transportation costs, including (i) transport of personnel to locate and retrieve the information or material required or requested and (ii) all other reasonably necessary costs to convey the information or material to the place of examination.

B. Payment for reasonably necessary, directly incurred costs to financial institutions shall be limited to material required or requested.

C. Payment shall be made only for costs that are both directly incurred and reasonably necessary.

D. A financial institution may require an advance payment, based on the institution's good faith estimate of the charges permitted by this section. Any payment in excess of the actual charge shall be promptly refunded by the financial institution.

E. If (i) a party to a lawsuit making the request for materials or information withdraws the legal process or formal written request, (ii) the customer revokes the authorization for release of materials or information, or (iii) the legal process or request has been successfully challenged by the customer, the party shall promptly notify the financial institution of these facts. The party shall be responsible only for the costs directly incurred prior to the time that the financial institution receives this notice.

F. A financial institution is not entitled to reimbursement under this section for costs incurred in assembling or providing 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 financial institution itself or to the institution in its role as a fiduciary.

INTRODUCED

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