

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4112-5-04

Rule Type: Amendment

Rule Title/Tagline: Record keeping.

Agency Name: Ohio Civil Rights Commission

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 9/21/2018
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4112.04
5. **What statute(s) does the rule implement or amplify?** 4112.04, 4112.05
6. **What are the reasons for proposing the rule?**

Five-year review.
Review Date: 09/21/2018
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule clarifies an exemption to statutory discrimination of making and maintaining records of protected classes by employers, unions, housing providers and creditors where such information is gathered or kept for purposes, such as affirmative action

requirements mandated by court order or where required by federal, state or local government.

The agency seeks to make the following amendments:

Ã¢Â¢ Add the protected classes of color, military status, disability, age ancestry, familial status (housing) and marital status (credit) to incorporate all classes of persons protected under Chapter 4112. For example, HUD may require housing providers receiving federal funds to report on the age of tenants, which if asked could violate 4112.02(H)(7).

Ã¢Â¢ Include the credit statute, section 4112.021(B) of the Revised Code, because the rule references loans for housing, which could fall under sections 4112.02(H) and 4112.021 of the Revised Code.

Ã¢Â¢ Add the language, "the applicant is informed in writing that disclosure of the information is voluntary," and the records areÃ¢Â¢

Ã¢Â¢ Add the words "or maintained" in conformance withÃ¢Â¢ to clarify the employer, union, housing provider or creditor may either make records to report based on the data provided or simply maintain the information/records provided in conformance with court or agency requirements.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**
Not applicable.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Resubmitted as XML document instead of PDF as previously submitted.

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

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Not applicable. The rule simply clarifies what is NOT illegal under Ohio law.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

None for compliance. Minimal for non-compliance. Remedy is change your practice.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

III. Common Sense Initiative (CSI) Questions

- 15. Was this rule filed with the Common Sense Initiative Office? No**

- 16. Does this rule have an adverse impact on business? No**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

Remedies for non-compliance are outlined in the statutes, not the rule. The remedies are primarily equitable in nature, such as cease and desist, change policy/practice, provide or undergo training.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**

Only to the court or federal, state or local governmental agency as the entity may have required, such as filing of EEO-1 data or affirmative action reports. No expenditures or reporting to the Ohio Civil Rights Commission.

Rule Summary and Fiscal Analysis

(Part A – General Questions)

4112-5-04

Rule Number

Existing – Five-year review (Amended)

TYPE of rule filing

Rule Title/Tag Line

Record keeping.

Ohio Civil Rights Commission

Agency Name

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RULE SUMMARY

1. Is this a five-year rule review?

Yes.

a. If so, what is the rule's five-year review date?

09/21/2018

2. Is this rule the result of recent legislation?

No.

a. If so, what is the bill number, General Assembly and Sponsor?

Bill Number: **N/A**

General Assembly: **N/A**

Sponsor: **N/A**

3. What statute is this rule being promulgated under?

R.C. 119.03.

4. What statute (s) grant the rule writing authority?

R.C. 119.03.

5. What statute(s) does the rule implement or amplify?

Sections 4112.04 and 4112.05 of the Revised Code.

6. What are the reasons for proposing (i.e., why are you filing,) the rule?

Five-year review.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

The rule clarifies an exemption to statutory discrimination of making and maintaining records of protected classes by employers, unions, housing providers and creditors where such information is gathered or kept for purposes, such as affirmative action requirements mandated by court order or where required by federal, state or local government.

The agency seeks to make the following amendments:

- **Add the protected classes of color, military status, disability, age ancestry, familial status (housing) and marital status (credit) to incorporate all classes of persons protected under Chapter 4112. For example, HUD may require housing providers receiving federal funds to report on the age of tenants, which if asked could violate 4112.02(H)(7).**
- **Include the credit statute, section 4112.021(B) of the Revised Code, because the rule references loans for housing, which could fall under sections 4112.02(H) and 4112.021 of the Revised Code.**
- **Add the language, “*the applicant is informed in writing that disclosure of the information is voluntary,*” and the records are...**
- **Add the words “*or maintained*” in conformance with... to clarify the employer, union, housing provider or creditor may either make records to report based on the data provided or simply maintain the information/records provided in conformance with court or agency requirements.**
 - **This change is also suggested for consistency within the rule. The first sentence of the rule states, “The making and maintenance of...”**

8. Does the rule incorporate material by reference?

Sections 4112.02(E), 4112.02(H)(7), and if amended, 4112.021(B) of the Revised Code.

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.

Not applicable.

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed rule.

Not applicable.

Fiscal Analysis

11. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues/expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

Not applicable.

12. What are the estimated costs of compliance of all persons and/or organizations directly affected by the rule?

None.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).

No.

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA, Part C).

No.

Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office?

Not applicable.

16. Does this rule have an adverse impact on business?

No.

- a. Does this rule require a license, permit or any other prior authorization to engage in or operate a line of business?
- b. Does this rule impose a criminal penalty, a civil penalty or another sanction, or create a cause of action for failure to comply with its terms?
- c. Does this rule require specific expenditures or the report of information as a condition of compliance?

No to all.