

CSI - Ohio

The Common Sense Initiative

MEMORANDUM

TO: Laura Monick, Ohio Department of Commerce

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: June 22, 2012

RE: **CSI Review – Real Estate Professionals 5-Year Review (OAC 1301:5)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package contains 63 rules up for 5-Year review. The rules set forth licensure standards and practice standards for real estate professionals and real estate continuing education providers. The burden placed on these professionals by the rules in this package is justified by the protection afforded to consumers who engage with real estate professionals. As the Division of Real Estate states in the submitted BIA, a real estate transaction is often the largest consumer transaction in which most Ohioans will ever participate. Furthermore, real estate professionals routinely handle the money of consumers in the form of earnest money deposits, rents, and security deposits. It is important the consumer be protected in these large transactions.

Many of the changes appear to lessen the burden on businesses. For example, OAC 1301:5-7-02 previously required a licensee to submit proof of completion of continuing education every three years. The amendment instead requires the licensee to certify the completion of the continuing education and maintain the records of the coursework. The Division may subsequently audit the licensee, but they will no longer be required to submit all of the detailed coursework documentation to the department.

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The stakeholder outreach, as demonstrated in the BIA, appears comprehensive. The Division worked with stakeholders for over one year to prepare these rules for filing. The BIA was not entirely descriptive about all the issues that were raised over the course of that year, but the Division certifies that all stakeholder concerns were addressed in the rules, and that generally the stakeholders were pleased with the rules. In support of that statement, the CSI Office will note that zero public comments were received with respect to this package.

The only concern the CSI Office has with respect to the BIA is that under question 16 of the BIA the Division states that no exemptions or alternative means of compliance exist for small businesses. We encourage the Division to explore opportunities to fulfill these important goals of making Ohio a friendly place for small businesses to flourish.

Recommendations

For the reasons described above, the CSI Office has no recommendations at this time for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Commerce should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Matt Close, Legislative Chief, Ohio Department of Commerce
Mark Hamlin, Lt. Governor's Office