CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: ***Ohio Department of Insurance***

Regulation/Package Title: ***Pre-need Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values***

Rule Number(s): ***3901-6-15***

Date: **April 22, 2013**

Rule Type:

- ☐ New
- ☐ Amended
- ☐ Rescinded
- ☒ 5-Year Review
- ☒ No Change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.
   Please include the key provisions of the regulation as well as any proposed amendments.

   The purpose of this rule is to establish for pre-need insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the "1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table" for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

3901.041 of the Revised Code.

3. Does the regulation implement a federal requirement? ☐ Yes ☒ No
   Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?
   ☐ Yes ☒ No
   If yes, please briefly explain the source and substance of the federal requirement.

   Not applicable.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

   Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

   This rule strengthens the insurance industry, particularly those companies that write pre-need insurance - insurance used to fund funeral services. ORC 3903.72 and supporting rules require the 2001 CSO mortality table as the mortality assumptions to be used in calculating reserves for life insurance products. It has been determined that the 2001 CSO table is inappropriate for use on pre-need insurance product reserves. This rule directs use of a more appropriate table – the 1980 CSO.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

   The Department will see a decrease in insurers improperly reserving for pre-need life insurance policies. This ultimately protects consumers assets.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

   In January 2013, an email requesting comment on the rule was sent to the general public, various stakeholders, interested parties, and trade associations who signed up for updates on the Department's rules and bulletins. The Department also reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurance (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), and the Professional Independent Agents Association (PIAA). The rule was also posted on the Department's web site for review.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

   This rule was reviewed as part of the five year rule review. Department staff decided that the rule should not be changed. The Department received no comments on the rule from industry or the general public.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

   Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

    This rule is based upon the current NAIC model which represents a nationwide industry standard. This rule provides consistent regulatory requirements for insurance carriers.

11. Did the Agency specifically consider a performance-based regulation? Please explain.
    Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

    Not applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

    The Department reviewed Ohio statutes and rules and determined that it does not duplicate other regulations.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

    The rule will be applied consistently and predictably through the market conduct review process, which has specific standards that providers are required to meet in order to conduct business in the state of Ohio.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
    a. Identify the scope of the impacted business community;

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
c. Quantify the expected adverse impact from the regulation.
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

All pre-need life insurance contract issuers are affected. Staff time and resources are required to comply with the rule. However, since the rule has been in effect for a few years and the insurance industry is already meeting the provisions of the rule, staff time and resources appear to already be in place.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The consumer benefit this rule provides outweighs the impact on insurance carriers. Even if Ohio rescinded the rule, insurance carriers would still be required to follow similar requirements in other jurisdictions which have adopted the NAIC model. Moreover, if the rule were rescinded, insurers could hold lower, inadequate reserves when filing their annual statement in Ohio, but higher, adequate reserves in all other jurisdictions.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, the rule provides important consumer protections that are critical regardless of the insurer's size.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Non-compliant filings are identified in the review process and discussed with the company. Generally, companies agree to change a filing as requested by the Department. In the event that a company would refuse to revise a filing, the Department would take formal administrative action in accordance with the due process provisions of the Revised Code.

18. What resources are available to assist small businesses with compliance of the regulation?

The Department's product regulation and actuarial staff are available to answer any questions companies may have about the provisions of the rule.