MEMORANDUM

TO: Jacqueline S. Mallett, Division Chief Counsel, Ohio Department of Commerce

FROM: Sean T. McCullough, Regulatory Policy Advocate

DATE: February 9, 2015

RE: **CSI Review – Ohio Pawnbroker Rules (OAC §§ 1301:8-5-01; 1301:8-5-02; 1301:8-5-03; 1301:8-5-04; 1301:8-5-05; 1301:8-5-06; 1301:8-5-07 and 1301:8-5-08)**

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

I.   INTRODUCTION AND BACKGROUND

On December 11, 2014, the Ohio Department of Commerce ("Commerce") submitted a rule package containing a total of eight (8) no-change rules. Commerce submitted these rules as a result of the five-year review requirement contained in statute. The rules contain various requirements for pawnbrokers subject to the Ohio Pawnbroker Act, which is codified as Chapter 4727 of the Revised Code. Commerce cites R.C. § 4727.13(A) as authority to establish these rules. The official comment period ended December 26, 2014. No comments were submitted during the CSI review period.

II.   ANALYSIS

A.   ADVERSE IMPACT ON BUSINESS

According to the BIA submitted by Commerce, the scope of the impacted business community is comprised of all licensed pawnbrokers.

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The rules require pawnbrokers to comply with various notice requirements concerning business hours, location changes, disposal of active loans, etc. The rules also contain certain record-keeping requirements, including documentation of certain charged fees, transactions, and advertising records. The rules also contain requirements for any institution wishing to offer continuing education courses to licensees, including required application information, instructor qualifications, and course criteria. Finally, the rules require licensees to complete twelve (12) hours of continuing education every two years.

The above previsions are enumerated in R.C. § 107.52, and therefore, are considered adverse impacts to business.

B. JUSTIFICATION FOR ADVERSE IMPACT

Commerce has indicated, through the BIA and additional communication with CSI, that it has submitted this rule package to CSI with no changes in order to satisfy an urgent five-year review date. As a result, the Department has not engaged in the level of stakeholder outreach that would normally be expected. However, as of the date of this memorandum, the Department has already begun to meet with stakeholders and gain input for the next review of its rules, and it has committed to placing an earlier review date on these rules. CSI is sensitive to special circumstances and demands encountered by agencies during rule review. It is because of the specific circumstances and the efforts of Commerce to immediately engage in a good-faith stakeholder outreach that CSI is willing to allow this rule package to move forward.

Therefore, with the caveat that Commerce will place a review date on these rules no later than eighteen (18) months from the date of this memorandum, CSI agrees that Commerce may file these rules with the Joint Committee on Agency Rule Review without further analysis.

III. RECOMMENDATIONS

After reviewing the BIA, the CSI Office makes the following recommendation regarding the rule package:

1. Commerce should file this rule package with a five-year review date that is no later than eighteen (18) months from the date of this memorandum, and shall continue to engage in a robust stakeholder review in order to determine whether changes to these rules are necessary.

IV. CONCLUSION

Based on the above analysis and recommendation, CSI concludes that Commerce should proceed with the formal filing of the rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office