

**MEMORANDUM**

TO: Anna Firestone, Department of Commerce, Division of Financial Institutions
FROM: Todd Colquitt, Business Advocate
DATE: December 15, 2016
RE: **CSI Review – Short Term Loan Act Rules (O.A.C. Chapter 1301:8-11)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C.) 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 proposed by the Ohio Department of Commerce's Division of Financial Institutions (Commerce) consists of the six rules comprising Ohio Administrative Code (O.A.C.) chapter 1301:8-11 which implements and amplifies the Short Term Loan Act of 2008 found in O.R.C. sections 1321.35 through 1321.48. Two rules contain proposed amendments while the remaining four contain no changes. This chapter of rules is being reviewed by Commerce under the five-year rule review requirement.

The few changes Commerce is proposing consist of typographical updates, specifically:

- Revising the definition of "net worth" to make it evergreen by eliminating the date-specific reference to generally accepted accounting principles so that they are not restricted to only those in effect on November 1, 2008.
- Updating the recordkeeping requirements' incorporation by reference of the Fair and Accurate Credit Transaction Act of 2003 and the Gramm Leach Bliley Act, both as subsequently amended.

The rules governing short-term lenders (also known as "payday lenders") cover matters such as

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recordkeeping, advertising disclosure requirements, license application and renewal, and surety bonding. Currently, there are no businesses licensed as short-term lenders in Ohio. Companies that are engaged in the type of short-term lending to which the Short Term Loan Act of 2008 was intended to apply typically license themselves as mortgage lenders. The terms and conditions of loans originated by mortgage lenders have fewer regulatory restrictions under Ohio law. Commerce proactively contacted representatives of various business and consumer organizations active in the area of short-term lending by firms licensed as mortgage lenders by sharing with them a draft version of the rules in this package for their review and feedback. Commerce states that it did not receive any feedback from these organizations in response to the early stakeholder outreach. Additionally, no comments were received from the public during the CSI comment period.

The purpose of a CSI recommendation memo is not to catalogue in detail each rule in all its subparts, but rather to weigh the rule package on the whole in whether stakeholders were included and their input considered, whether the appropriate balance has been struck, and whether the agency has adequately articulated the necessity for the adverse business impact. After reviewing the proposed rules and BIA, the CSI Office has determined that the rule package as a whole satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts identified in the BIA.

Recommendations

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

Conclusion

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

cc: Mark Hamlin, Lt. Governor's Office