



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Jacquie Keller-Potvin, Ohio Department of Agriculture

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** August 12, 2020

**RE:** **CSI Review – Auctioneers (OAC 901:8-2-01 through 901:8-2-11)**

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On behalf of Lt. Governor Jon Husted, 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 consists of 11 amended rules proposed by the Ohio Department of Agriculture (ODA) as part of its statutory five-year review requirement. This rule package was initially submitted to the CSI Office on May 28, 2020, and the public comment period was held open through June 19, 2020. ODA made changes to the proposed rules and resubmitted the rule package to the CSI Office on July 16, 2020 and held the second comment open through July 23, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 16, 2020.

Ohio Administrative Code (OAC) Chapter 901:8-2 establishes requirements for auctioneers, apprentice auctioneers, and auction companies. OAC 901:8-2-01 describes meetings of the State Auctioneer's Commission and is amended to remove specific location requirements and language stating that meeting notices would be posted with Gongwer and Hannah News. OAC 901:8-2-02 sets forth the licensure procedure for apprentice auctioneers, including the processes for application, examination, and fee payment, and is amended to remove language duplicative of statute. OAC 901:8-2-03 establishes licensure procedures for auctioneers and is also being

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amended to remove duplicative language already found in the authorizing statute. OAC 901:8-2-04 establishes license reciprocity procedures and is amended to remove mention of the ODA website. OAC 901:8-2-05 and 901:8-2-06 set forth procedures for license renewal and recordkeeping and are amended to remove language already found in the authorizing statute. OAC 901:8-2-07 concerns license procedures for corporations and auction firms and includes formatting updates. OAC 901:8-2-08 establishes a list of offenses and fines which may be assessed. The rule is being amended to include aiding an unlicensed entity among the list of major offenses and to remove language related to depositing fines in funds. OAC 901:8-2-09 and 901:8-2-10 establish requirements for the auctioneer fund and auction firm licenses. OAC 901:8-2-11 concerns online auctions held in conjunction with live auctions.

During early stakeholder outreach, ODA solicited feedback on the proposed rules from relevant industry stakeholders, including the Ohio Auctioneer's Association. No stakeholder comments were received during this time or during the CSI public comment periods.

The business community impacted by these rules includes auctioneers, apprentice auctioneers, and auction companies operating in Ohio. The adverse impacts include the cost of license and examination fees and the time and effort spent to take the license examination. Auctioneer license fees cost \$200 and apprentice and auction firm licenses cost \$100. The licenses are renewed biennially. Penalties for violations such as fraud or theft are also detailed in the rules and include fines which can reach up to \$10,000 for repeated serious offenses. ODA states in the BIA that the rules are necessary to ensure that consumer transactions are conducted properly.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Ohio Department of Agriculture should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.