

Common Sense
Initiative

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Business Impact AnalysisAgency Name: Ohio Department of InsuranceRule Contact Name: Loretta MedvedRule Contact Information: 614-644-0239loretta.medved@insurance.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Life Insurance Group #1Rule Number(s): 3901-6-08, 3901-6-10, 3901-6-10.1, 3901-6-10.2, 3901-6-15Date of Submission for CSI Review: June 21, 2023Public Comment Period End Date: July 7, 2023 12:00amRule Type/Number of Rules:

- | | | | |
|--|---------------------|-------------------------------------|---------------|
| <input type="checkbox"/> New/ | rules | <input type="checkbox"/> No Change/ | rules (FYR?) |
| <input checked="" type="checkbox"/> Amended/ | 5 rules (FYR? 2023) | <input type="checkbox"/> Rescinded/ | rules (FYR?) |

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 requires agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☐ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☐ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule 3901-6-08: The purpose of this rule is to provide clarification and guidance, to establish standards regarding fixed premium and flexible premium variable life insurance policies, and for compliance with the requirements in sections 3907.152 and 3911.01 of the Revised Code. Proposed amendments will reduce regulatory restrictions.

Rule 3901-6-10: The purpose of this rule is to provide: (a) tables of select mortality factors and rules for their use; (b) rules concerning a minimum standard for the valuation of plans with nonlevel premiums; and (c) rules concerning a minimum standard for the valuation of plans with secondary guarantees. Additionally, the rule also provides that the method for calculating basic reserves defined in this rule will constitute the "Commissioners' Reserve Valuation Method" for policies to which this rule is applicable, based upon the National Association of Insurance Commissioners (NAIC) model. Proposed amendments will reduce regulatory restrictions, and correct a citation.

Rule 3901-6-10.1: This rule implements sections 3915.07, 3915.071, and 3903.72 of the Revised Code by permitting the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers. Proposed amendments are technical and will reduce regulatory restrictions.

Rule 3901-6-10.2: The purpose of this rule is to implement section 3915.071 of the Revised Code by permitting individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women. Proposed amendments are technical and will reduce regulatory restrictions.

Rule 3901-6-15: The purpose of this rule is to establish pre-need insurance products minimum mortality standards for reserves and nonforfeiture values. The rule requires the use of the "1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table" for policies established prior to January 1, 2012 and the "2001 CSO Mortality Table" for policies established on or after the effective date of the rule and before January 1, 2012 for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products. Proposed amendments are technical and will reduce regulatory restrictions.

3. Please list the Ohio statute(s) that authorize the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

Section 3901.041 of the Revised Code.

4. 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.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. 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)?

The rules listed provide guidance to companies on how to rate insurance products adequately to maintain a sufficient reserve balance to ensure that companies are able to cover claim payments.

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

Insurers will be holding appropriate reserves and calculating appropriate nonforfeiture values. The department will not receive an increase in complaints about life insurance policies and there will not be an increase in administrative actions against insurers for violating provisions of these rules.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? ☐ Yes ☒ No

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Not applicable.

Development of the Regulation

9. 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 mid-April the department sent an email to stakeholders informing them that the rules have been posted to the department webpage for a two week comment period. Drafts of the rules have remained online for review since then. Stakeholders included; consumer groups and associations such as the Ohio Association of Health Plans, the Ohio Insurance Agents Association, the National Association of Insurance and Financial Advisors, and the Ohio Insurance Underwriters Association, as well as insurance companies.

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

The department received no comments from stakeholders regarding these rules.

11. 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?

The mortality tables were developed from scientific data collected and analyzed by the Society of Actuaries. The tables represent industry wide claims experience with a margin added for statutory conservatism and encourages appropriate reserving.

12. 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? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

These rules are based upon current NAIC models which represent nationwide industry standards. This rule provides consistent regulatory requirements for insurance carriers.

13. 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 these rules do not duplicate other regulations.

14. 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.

These rules will be applied consistently and predictably through the review process, which has specific standards that companies are required to meet before selling certain products. These rules are already in effect and the companies, as well as the department, are familiar with and are currently meeting the provisions of the rules.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

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.

Life insurance companies are impacted by implementation of these rules.

Rule 3901-6-08: This rule provides guidance regarding fixed premium and flexible premium life insurance policies. The quantifiable impact would be employee time to maintain compliance. Since the rule establishes a framework for how products are determined to be suitable or unsuitable to meet the needs of the consumer, the time required to comply with the rule would follow with the daily operation of business.

Rules 3901-6-10, 3901-6-10.1, 3901.6-10.2, 3901-6-15: These rules all provide guidance regarding mortality tables for life insurance policies to accurately determine valuation and set minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance. Any time or costs associated with providing this disclosure to the consumer are well established in conducting everyday transactions as well as the number of policies underwritten. All rules have been in effect for several years, and therefore, the only impact should be that of staff time for compliance subject to the number of policies sold.

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.*)

The proposed amendments to these rules will reduce regulatory restrictions.

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

These rules provide guidance to maintain appropriate reserve balances. Not adhering to the standards promulgated by the department could result in hazardous financial condition of an insurance company.

Regulatory Flexibility

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

No, the rules provide important consumer protections, product development regulation and standards to maintain solvency to which all insurance companies must adhere, regardless of size.

19. 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 or filing submission with inappropriate tables are identified in the examination process and discussed with the company. Generally, companies agree to change a filing as requested by the department, or propose an acceptable alternative. In the event that a company would refuse to revise a filing, the department proceed with the administrative remedies available.

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

Department staff is available to answer questions, regardless of the size of business. The department provides filing information and instructions on its web site. The department continues regular dialogue with stakeholders and provides filing information and instructions on its web site.