

Rule Summary and Fiscal Analysis (Part A)**Department of Commerce**

Agency Name

Division of Financial Institutions: Consumer **Anthony Siciliano****Finance**

Division

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1301:8-10-01

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Criteria for qualifying to provide counseling services.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **1349.36**

5. Statute(s) the rule, as filed, amplifies or implements: **1349.27, 1349.271**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is required to be promulgated by Ohio Revised Code (R.C.) section 1349.271

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The Ohio Homeowner and Equity Protection Act protects consumers who are refinancing a mortgage or obtaining an open-end line of credit secured by their home. In order to protect consumers, the law requires that a consumer must receive prepurchase counseling from a counseling service that meets the criteria established by the Superintendent of Financial Institutions. This rule establishes the criteria that a credit counseling service approved by the U.S. Department of Housing and Urban Development (HUD) as well as any not-for-profit credit counseling service approved by a federal agency satisfy the criteria needed to provide prepurchase counseling services. As a result of changes in federal law, HUD and the Consumer Financial Protection Bureau each maintain a website with the list of certified counseling services. Thus the criteria require the counselor be certified and appear on the list maintained by the two federal agencies. The rule also requires authorized credit counseling servicers to register with the Ohio Secretary of State and to comply with the requirements of the Credit Services Organizations Act and Debt Adjuster Act, if applicable. As an additional criteria, a counseling service is only qualified to provide counseling services if it does not also broker or make a residential mortgage loan in the same transaction in order to avoid a conflict of interest.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

The United States Code and Federal Register are exempt from R.C. 121.71 to 121.74 pursuant to R.C. 127.75. Both sources are generally available to the public via the Internet, at all U.S. government depositories and at many public libraries.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously

filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

The rule is being revised to change the answer to question 19(A) of the Rule Summary and Fiscal Analysis (RSFA). The Division changed the answer to question 19(A) from "no" from "yes" and provided an explanation. This change was made to reflect the fact that this rule requires a counseling service to register and maintain registration with the Secretary of State in order to conduct business in Ohio.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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This rule will have no impact on the Department of Commerce's or Division of Financial Institution's revenues or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

OAC 1301:8-10-01 requires counseling services to be certified by HUD and

prohibits the counseling services from acting as a counselor and mortgage broker in the same transaction. The impact to counseling services from this regulation is minimal because this is not a new requirement. Federal law requires counseling services be certified by HUD. Further, the counseling services requested the Department to prohibit counseling services from acting as the mortgage broker and counselor in the same transaction. This prohibition will affect a very small group of services but is essential to providing the consumer with unbiased counseling.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

Yes. This rule requires a counseling service to register and maintain registration with the Secretary of State in order to conduct business in Ohio.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**