

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Agent Licensing and Appointments
Rule Number(s): 3901-5-09

Date: August 20, 2012

Rule Type:

☐ New

☐ 5-Year Review

☒ Amended

☐ No Change

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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

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

Procedures and requirements for the licensing and appointment of insurance agents. To reduce the fee for late license renewal and for the reinstatement period. To add a provision to give the Superintendent the authority to waive the above fees in extenuating circumstances.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

3901.041, 3905.04, 3905.12, and 3905.20

3. Does the regulation implement a federal requirement? ☐ Yes ☒ No

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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.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. 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 original purpose of rule 3901-5-09 was to impose fees on agents who failed to comply with the provisions of HB 300, which set license renewal requirements on resident and non-resident agents and business entities. The purpose of the fees is to deter agents from not complying with the law.

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

The agency will be able to measure the success of these fees by seeing a reduction of the number of late license renewals over the span of several two year renewal periods.

Development of the Regulation

7. 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 June 2012, an email requesting comment on the rule was sent to various stakeholders, interested parties, and trade associations, including Ohio Insurance Institute, the Ohio Association of Health Plans, the Association of Ohio Life Insurance Companies, the National Association of Insurance and Financial Advisors (NAIFA) Ohio, the Professional Insurance Agents of Ohio, and the Independent Insurance Agents of Ohio.

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

The Department began receiving complaints from individual agents about the fees. ODI then began working with the trade association and agent groups listed above to come to a more acceptable fee system. Once the Department and the interested parties came to an

agreement on the new rule language, the amended rule was distributed for comment. The Department received no negative comments on the new language.

9. 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?

Not applicable.

10. 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?

HB 300, passed in 2010, was the original legislation that implemented the agent license renewal process. The current version of the rule was put into place to establish the fee amounts. The Department is amending the rule because it felt that the fees listed in the rule in its current form were excessive and needed to be lowered. The fees were lowered to the levels in the proposed rule after working with the various interested parties to find a more acceptable fee level.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Not applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The regulation of this product is exclusive to the Department of Insurance and it does not duplicate any other rule or regulation.

13. 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.

The Department has worked with the trade associations to relay the provisions of HB 300 to their members, including a massive mailing campaign, email blasts, newsletter articles, and personal phone calls to agents who are in danger of having their license expire. The Department's licensing staff is available to answer any questions that agents may have concerning the provisions of HB 300.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

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

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.

The scope of the impacted business community will be limited to those agents/business entities that do not comply with the license renewal provisions of HB 300. The nature of the adverse impact will be a \$50 fee for agents/entities that allow their insurance license to expire and wish to reinstate it and a \$100 fee for agents/entities that allow their insurance license to be suspended and wish to reinstate it.

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

The Department feels the fees are necessary to compel agents who wish to sell insurance in the state of Ohio to make sure they renew their license on time. Again, these fees are paid only by agents that fail to renew their license before it expires.

Regulatory Flexibility

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

The Department reviewed the rule and determined that there is no alternative means of compliance for small businesses.

17. 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?

119.14 deals with the waiver of fines and penalties. This rule deals with proposed fees, which can be waived for military service, a long term medical disability, or some other special or extenuating circumstance, not paperwork violations or first time offenders.

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

The Department has worked with the trade associations to relay the provisions of HB 300 to their members, including a massive mailing campaign, email blasts, newsletter articles,

and personal phone calls to agents who are in danger of having their license expire. The Department's licensing staff is available to answer any questions that agents may have concerning the provisions of HB 300.