

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Ohio Fair Plan - Plan of Operation
Rule Number(s): 3901-1-18

Date: October 24, 2012

Rule Type:

- | | |
|------------------------------------|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input checked="" type="checkbox"/> No Change |
| <input type="checkbox"/> Rescinded | |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.

The "Ohio Fair Plan Underwriting Association" has been formulated for the purpose of making basic property and homeowners' insurance coverage available for qualified property owned by persons who have been unable to secure such insurance in the standard insurance market.

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

3901.041 and 3929.42

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 purpose of this rule is to provide the framework and rules for the actual operation of the Ohio Fair Plan as statutorily required by ORC 3929.43.

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

The plan of operations provides the only section in code in which certain provisions are enforced. For example; the rule requires that written notice be provided upon cancellation of homeowners and dwelling/fire policies. The plan of Operations also requires that the company provide notification to policy holders that The Ohio Fair Plan (OFP) is an option after being dropped from traditional policies. By eliminating or altering this rule these protections along with many others, may be eliminated and therefore create a negative output. By maintaining the rule as it is written enforceability will remain intact.

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 who signed up for updates on the Department's rules and bulletins. The Department reached out to the Ohio Fair Plan about this rule as it specifically impacts them. The rule was also posted on the Department's web site for review.

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

This rule was reviewed as part of the five year rule review. Department staff determined that no change was needed to the rule. After input was sought, no negative input was received by interested parties, industry or stakeholders. The Ohio Fair Plan supports this plan of action.

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?

No alternative regulations were considered because there are no alternative regulations to consider. This is a narrowly tailored rule to fit a specific need.

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 rule is exclusive to the Department of Insurance and 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 rule has been in effect for several years and as there is not change to the rule, no updates on how to implement the rule are needed.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:
- Identify the scope of the impacted business community;
 - Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
 - 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.

a) Insurers that participate in the Ohio Fair Plan.

b) Insurers must adhere to the insurance laws and rules which requires the development of products that comply with Ohio insurance laws.

c) No additional impact is expected on Ohio insurers as a result of participating in the Ohio Fair Plan. Staff time and resources are needed to operate the Ohio Fair Plan, but since the Fair plan has been operating for several years, it is not expected that this rule will require additional resources.

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

The Ohio Fair Plan provides essential insurance coverage for eligible property unable to obtain insurance through the voluntary market.

Regulatory Flexibility

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

The Ohio Fair Plan is not a business.

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?

Historically, the OFP has not been assessed fines and penalties for paper work violations. There is no plan to begin implementing such penalties.

18. 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 the business.