

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Public Insurance Adjusters
Rule Number(s): 3901-1-24

Date: June 9, 2016

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 Rescinded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

- Please briefly describe the draft regulation in plain language.
Please include the key provisions of the regulation as well as any proposed amendments.
The rule regulates conduct of public insurance adjusters.
- Please list the Ohio statute authorizing the Agency to adopt this regulation.
Section 3901.041 of the Revised Code.
- 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

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If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

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)?

Public insurance adjusters represent policyholders by assisting with interpretation of the insured's policy and negotiates with the insurance company on a claim. The public purpose of the rule is consumer protection, accomplished by setting prohibitions and standards of conduct for public insurance adjusters.

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

Success is measured generally through absence of complaints, or allegations that lead to a need to investigate or penalize licensed adjusters for misconduct, or for the need to take action against non-licensed individuals for inappropriately acting as public adjusters.

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.*

Interested stakeholders for the rule includes Ohio Insurance Institute (OII), Ohio Insurance Agents (OIA), National Association of Public Insurance Adjusters (NAPIA), American Association of Public Insurance Adjusters (AAPIA), and domestic property & casualty insurers. The department posted the rule chapter on its website for public review and made trade associations representing insurance companies aware the rules were due for five year review. In addition, in May 2016, an email requesting comment on the rules was sent to the stakeholders.

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

Stakeholders did not request changes nor seek additional discussion on the rule.

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?

The National Association of Insurance Commissioners (NAIC) developed a model act, which was created and vetted through a committee process that included research and input from various state regulators and industry stakeholders. While the NAIC model is not a standard for accreditation and has not been adopted in its entirety, it does provide baseline guidance for common consumer protection concerns and oversight of public insurance adjuster conduct. This baseline provided a structure of priorities for the rule: Public insurance adjuster prohibitions, record-keeping, contract requirements, and insurer restrictions.

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?

Alternative regulations were not necessary since the scope of the rule is to regulate the conduct of public adjusters and proscribe related requirements and prohibitions.

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.

No. Since the rule's purpose is to proscribe requirements and prohibited activities for the licensed individuals, it is not an outcome-based rule but instead clarifies standards of conduct.

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

The department is the sole regulator for insurance in the state of Ohio, and there are no duplicative regulations for public insurance adjusters.

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 only amendment recommended is technical and there are no changes to implementation or ongoing oversight practices. All requirements are applied equally to licensed public insurance adjusters.

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 impacted business community is primarily licensed public insurance adjusters. The rule's scope focuses on standards of conduct and, therefore, does not impose a direct cost or adverse impact for compliance. Statute requires licensure before acting as a public insurance adjuster, which includes a \$100 initial application fee and a \$50 annual renewal fee.

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

The prohibited actions for public insurance adjusters and restrictions for insurers and consumer protection provisions are in place to ensure against conflicts of interests or other actions that may cause consumers financial harm. The contract requirements aid in ensuring transparent services for consumers hiring public adjusters, while the records provisions ensure adequate information is present should the superintendent need to investigate business practices of any adjuster.

Regulatory Flexibility

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

No. The requirements apply equally to any licensed public insurance adjuster, most of which are individual practitioners or small-business agencies.

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?

The violations addressed in the rule are conduct violations and are more substantial than paperwork violations. This rule does not provide the authority to impose fines or penalties. The superintendent may suspend, revoke, or refuse to renew a public adjusters license for a

conduct violation, and any such action would be conducted under a Chapter 119. Administrative hearing process.

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

The department staff is available to answer questions and provide assistance as needed when companies are compiling information and preparing forms to submit filings.