

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Transaction fees.
Rule Number(s): 3901-1-57

Date: June 15, 2018

Rule Type:

- | | |
|---|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input checked="" type="checkbox"/> Amended | <input 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 Rescinded | |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.

Rule 3901-1-57 authorizes statutorily required fees to be collected for services performed by the Department for financial transactions and product review.

The rule is amended to harmonize the language of the rule with current best practices in the performance of these transactions by the department. The changes are believed to clarify the rule and make the language more concise.

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

Sections 3901.041 and 3901.043 of the Revised Code.

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3. 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.

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 establish appropriate fees for specified transactions between the department and insurance companies as described in section 3901.043 of the Revised Code. Agent appointments are statutorily required to ensure that only properly licensed individuals are selling insurance products, and only through authorized relationships with each company.

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

The department measures success by ensuring that the fees generated are sufficient to perform the required functions but are not excessive or burdensome on the Ohio insurance industry.

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 April 2018, 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 also reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurers (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), Ohio Insurance Institute (OII), American Insurance Association (AIA), and the Ohio Insurance Agents Association (OIA). 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. The department is proposing to amend the rule to align with current best practice in regard to the impacted transactions. The department received no comments on the rule from industry or the general public during the two-week vetting period.

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 department has analyzed the cost to perform the services provided and determined that the fees are adequate to sufficiently serve the companies and agents in regard to the prescribed transactions. The agent appointment fees were reduced in 2014 due to increased efficiencies in operations. The proposed amendments are designed to clarify language for ease of understanding.

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?

This rule was promulgated in 1994. Stakeholders understand the need for and generally support statutory requirements for financial and market conduct oversight that ensure a competitive and solvent marketplace. The department received no feedback from stakeholders or the public during the vetting period.

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.

The intent of this rule is to establish fees for prescribed transactions performed by the department. A performance-based regulation would not be applicable.

12. 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 it does not duplicate other regulations.

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 will be applied consistently and predictably through transactions described, which requires set fees to be applied to services performed by the department.

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 fees in the rule impact insurance companies, affecting all lines of insurance for all companies doing business in Ohio.

The annual financial impact of company transaction and policy filing fees is dictated by the volume of transactions companies perform. The company transaction filings for new or revised policies and complex company structure changes and actions are statutorily required.

The fees in the rule range from \$15 to \$2500 and include activities ranging from agent appointments and product filings to large company transactions such as mergers or re-organization of company structure.

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

The transaction, filing and other fees delineated in the rule are not utilized at the same rate by the industry. The fees correlate directly to volume of activity performed by each company. The fees are weighted based on the scope of resources required to review each type of transaction or activity, and are designed to offset only those costs. Overall these fees balance the need to provide appropriate consumer protection with thorough reviews while not placing undue burden or impact on the industry. Analysis of all fee structures is ongoing continually.

Regulatory Flexibility

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

The costs associated with the fees are driven by utilization, so smaller companies are not likely to incur as many fees.

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?

Minor errors would be handled by advising the insurance company and giving them an opportunity to remedy the omission.

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 business. Furthermore, the department provides filing information and instructions on its website. The department has regular dialogue with stakeholders through the implementation process to ease confusion and facilitate questions.