



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce, Division of Financial Institutions

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Regulation/Package Title (a general description of the rules' substantive content):

Rules relating to insurance premium finance companies

Rule Number(s): 1301:8-4-01 (no change); 1301:8-4-02(no change);

1301:8-4-03 (no change); 1301:8-4-04 (no change)

Date of Submission for CSI Review: June 14, 2021

Public Comment Period End Date: June 25, 2021

Rule Type/Number of Rules:

New/___ rules

No Change/___4___ rules (FYR? yes)

Amended/___ rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☐ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

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

This rule package contains four rules which amplify the Insurance Premium Finance Company Act (R.C. 1321.71 to 1321.84) as follows:

1301:8-4-01 *Definitions and General Provisions* - This rule provides definitions and other general provisions applicable to licensees under the Insurance Premium Finance Company Act. It's been determined that no changes are necessary for this rule.

1301:8-4-02 *Licensing* - This rule clarifies and provides additional information pertaining to an insurance premium finance company's license and the Division's licensing process. It's been determined that no changes are necessary for this rule.

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1301:8-4-03 *Record Keeping Requirements* - This rule clarifies and provides additional information on pertaining to the R.C. 1321.76 record retention requirements for insurance premium finance companies. It's been determined that no changes are necessary for this rule.

1301:8-4-04 *Advertising* - This rule clarifies advertising requirements applicable to insurance premium finance companies. It also provides additional clarification for how the R.C. 1321.76 record retention requirements apply to advertisements. It's been determined that no changes are necessary for this rule.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

These rules are authorized by R.C. 1321.77. They amplify R.C. 1321.73, 1321.74, 1321.76 and 1321.79

- 4. Does the regulation implement a federal requirement? 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? No. If yes, please briefly explain the source and substance of the federal requirement.**

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

Not applicable.

- 6. 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)?** These rules are needed to better enforce and carry out the purposes of sections 1321.71 to 1321.84 of the Revised Code. They are also necessary to provide stakeholders with additionally clarity and detail regarding the requirements and provisions of sections 1321.71 to 1321.84 of the Revised Code.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?** Success will be measured by the clarity and guidance these regulations will bring to stakeholders as it pertains to their regulatory interactions with the Division.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? No.**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

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AFCO CREDIT CORPORATION
DAYTON PREMIUM FINANCE CO.
I.P.F. CORP.
IPFS CORPORATION
ROYAL PREMIUM BUDGET, INC.
MEDICAL PROTECTIVE FINANCE CORPORATION
PREMIUM ASSIGNMENT CORPORATION
CSM PREMIUM FINANCE COMPANY
E.T.I. FINANCIAL CORPORATION
AFCO PREMIUM CREDIT LLC
COMMERCIAL PREMIUM FINANCE, INC.
PRIME RATE PREMIUM FINANCE CORPORATION, INC.
CARDINAL PREMIUM FINANCE, INC.
EXPRESS PREMIUM FINANCE COMPANY, L.L.C.
MARATHON PREMIUM FINANCE CO., LLC
NCMIC FINANCE CORPORATION
MOORSBRIDGE ENTERPRISES, INC.
ASSOCIATED RISK MANAGERS FINANCE COMPANY
GREAT LAKES PREMIUM FINANCE CORPORATION
AON PREMIUM FINANCE, LLC
PREMCO FINANCIAL, LLC
E-Z PREMIUM FINANCE COMPANY
GENERAL AGENTS ACCEPTANCE CORPORATION
TEPCO PREMIUM FINANCE LLC
SOUTH BAY ACCEPTANCE CORPORATION
CLASSICPLAN PREMIUM FINANCING, INC.
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AUTO NOW ACCEPTANCE COMPANY, LLC

MOUNTAIN PREMIUM FINANCE CORPORATION

CHELSEA FINANCIAL GROUP, INC

INSURANCE FINANCE COMPANY, LLC

GBC PREMIUM FINANCE, INC.

NORTHERN INVESTORS COMPANY

NATIONAL PARTNERS PFCO, LLC

CAPITAL PREMIUM FINANCING, INC.

JOHNSON & JOHNSON PREFERRED FINANCING INC.

AUTO PREMIUM ASSISTANCE COMPANY LLC

INSURANCE PAYMENT COMPANY

SKNKSKMK LLC

Jackson Vaughn Public Strategies

Barnes & Thornburg

Krieg DeVault LLP

Coalition on Homelessness in Ohio

K&L Gates

Ice Miller LLP

Ohio Financial Services Association (OFSA)

Dreher Tomkies

Lending Tree

McGlinchey Stafford

Bradley

Vorys

Baker Law

Policy Matters Ohio

Ohio Poverty Law Center

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Kohrman Jackson & Krantz

Thompson Hine

Ohio State Bar Association (OSBA)

Dickinson Wright

Governmental Policy Group

If applicable, please include the date and medium by which the stakeholders were initially contacted. The Division emailed copies of the rules for review and comment to stakeholders on August 27, 2020.

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

The Division did not receive any feedback on these rules.

11. 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.

12. 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?

These rules are undergoing their five-year rule review. Accordingly, they were thoroughly reviewed and it was determined that no changes were necessary.

13. 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.*

These rules are largely performance based. For example, the record keeping requirements set forth in OAC 1301:8-4-03 and 1301:8-4-04 dictate the types of records that must be retained, but not the specific manner in which they are maintained.

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

The Division is the primary regulator of this industry and is not aware of any duplicative regulations.

15. 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.

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No changes are being proposed to these rules. However, they were made available to stakeholders during the rule review process and will continue to be available to them through the Division's website through the remainder of the process.

Adverse Impact to Business

16. 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; These rules apply to premium finance companies licensed under R.C. 1321.71 to 1321.83. **and**

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);

1301:8-4-01 – This rule is primarily definitional but could require a specific expenditure for any licensee required by the Division to obtain an outside audit. However, this scenario is extremely rare and would only be necessary in situations in which licensee's balance sheet is in question or where fraud is suspected.

1301:8-4-02 – This rule does not result in any adverse impacts beyond those already created by R.C. 1321.73 and 1321.74.

1301:8-4-03 – This rule may result in a record storage and maintenance costs for licensees.

1301:8-4-04 - This rule may result in a record storage and maintenance costs for licensees and employer time to meet the rule's notification requirement.

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.

1301:8-4-01 –In the rare circumstance the Division requires an outside audit, the dollar cost to the licensee will vary significantly based on the audit scope.

1301:8-4-02 – This rule does not result in any adverse impacts beyond those already created by R.C. 1321.73 and 1321.74.

1301:8-4-03 – The dollar cost of record storage and maintenance costs vary depending on the volume and manner in which the records are stored. The rule's notification requirement results in a negligible amount of licensee time.

1301:8-4-04 - The dollar cost of record storage and maintenance costs vary depending on the volume and manner in which the records are stored. The rule's notification requirement results in a negligible amount of licensee time.

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17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community? The adverse impact of these rules is outweighed by the additional clarification the rules provide licensees, as well as the consumer protection benefits they provide.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. No. These rules must be applied uniformly in order to protect the interests of consumers.

19. 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? These rules do not expressly provide for any fines or penalties for paperwork violations. The consideration of any discretionary fines or penalties for any violations of these rules will take into account the provision of R.C. 119.14.

20. What resources are available to assist small businesses with compliance of the regulation? Division staff is available via phone or email to assist with compliance, and that fact is widely publicized to licensees. The Division also conducts routine examinations of licensees, at which time examiners can provide assistance or answer questions. Division staff is also available to meet directly with any licensee outside of an exam, should the need arise.