



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

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Regulation/Package Title (a general description of the rules' substantive content):	<u>Ohio fair plan - plan of operation</u>
Rule Number(s):	<u>3901-1-18</u>
Date of Submission for CSI Review:	<u>December 18, 2024</u>
Public Comment Period End Date:	<u>January 3, 2025, 11:59 PM</u>
Rule Type/Number of Rules:	
<input type="checkbox"/> New/ rules	<input type="checkbox"/> No Change/ rules (FYR?)
<input checked="" type="checkbox"/> Amended/ 1 rules (FYR? n/a)	<input type="checkbox"/> Rescinded/ rules (FYR?)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 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.

Rule 3901-1-18: The Ohio fair plan underwriting association (OFP) is an entity created by statute which provides an option for Ohioans to purchase homeowners insurance for properties that are denied coverage through the regular market. All companies authorized to write basic property and homeowners' coverage in the state of Ohio are members of OFP. The insurers' members fund OFP losses (and profits) in direct proportion to their premium volume of business in the state. Per statute the association submits a proposed plan of operation to the superintendent of insurance for approval, which the superintendent adopts by rule. Proposed amendments will increase coverage limits to better serve insureds, reduce burdensome inspection requirements, remove regulatory restrictions, and remove gender specific language.

3. Please list the Ohio statute(s) that authorizes the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

Sections 3901.041 and 3929.43 of the Revised Code.

4. 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.

5. If the regulation implements a federal requirement, but 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)?

The OFP is beneficial to consumers that are unable to obtain homeowners or personal property coverage in the marketplace. The program allows member insurers to spread the costs of providing coverage to these properties. An increase in coverage limits is necessary to address rising property values and increasing costs for repair.

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

Success is measured by adequate access to insurance coverage through the OFP for high risk property owners.

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? ☐ Yes ☒ No

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

Not applicable.

Development of the Regulation

9. 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.*

The department worked with OFP staff to draft necessary amendments to the rule throughout 2024. On November 20, 2024, the OFP board of governors was made aware of the draft rule and the ability to submit comments to the department as part of the triannual board meeting.

On that same day, the rule was posted on the department web page as accepting public comment until December 18, 2024.

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

No written stakeholder comments were received.

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?

The OFP reviewed the plan of operations to update and modernize the rule. The amendments were based on determinations made by OFP staff, and recommendations from the board of governors.

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? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

No alternative regulations were deemed appropriate as the sole purpose of the OFP rule is to implement the plan of operation, as required by statute. The department maintains communication with OFP to ensure the plan of operation is functioning as needed.

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

The OFP is the sole entity required to administer the program covered by the plan of operation, and the department is the sole agency required to review and approve the plan of operation. There are no duplicative rules.

14. 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.

OFP implements the plan of operations and will continue to do so. The proposed amendments will not significantly impact the current operation.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and

- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

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. The rule impacts the OFP, high-risk homeowners seeking coverage through the OFP, insurers writing basic property/homeowners insurance in Ohio and Ohio insurance agents. The impacted insurers are required by statute to be members of OFP.

b. Agents are required, upon request, to assist qualified homeowners in applying for coverage through the program. The rule sets the processes and requirements in administering the program, as well as for applying for coverage through the program. Impacted carriers and their respective agents should familiarize themselves with the operation and requirements of participation in the OFP occasionally as a part of maintaining business requirements.

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.*)

Proposed amendments to the rule will greatly reduce regulatory restrictions.

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

Impact is generally positive for applicable homeowners. Statute requires a fair plan association to assist applicants to secure basic property/homeowners insurance, and to formulate and administer a program for the equitable apportionment of homeowners insurance which cannot be obtained in the normal insurance market.

Regulatory Flexibility

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

All insurers authorized to provide homeowners insurance in this state, regardless of size, are statutorily required to participate in the program as members.

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?

Paperwork violations and/or first time offender issues would be dealt with on a case-by-case basis. Minor errors would be handled by advising the agent or company and giving them an opportunity to cure the omission or irregularity.

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

Department staff is available to answer questions and provide assistance as needed, regardless of the size of the business.