

**MEMORANDUM**

TO: Jarrett Dunbar, Ohio Department of Insurance

FROM: Paula Steele, Regulatory Policy Advocate

DATE: September 5, 2012

RE: **CSI Review – (OAC 3901-5-09) Agent Licensing and Appointments**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

The proposed amended rule articulates the various licensing and appointment procedures for insurance agents and describes the requirements for obtaining a limited license as well as the types of products an agent can sell when holding such license. To become licensed to sell insurance products, the rule requires a prescribed amount of pre-licensing education, passage of a licensing exam and background check, an application, and payment of fees. The rule describes how to renew, suspend, and surrender a license and it describes how an agent can be paid. Procedures for appointments, or the authority given by an insurance company to an insurance agent to sell the company's insurance products, are also included.

According to the Ohio Department of Insurance (ODI), the original purpose of the rule was to impose fees on agents who failed to comply with the provisions of House Bill 300 (128th General Assembly), which set license renewal requirements on resident and non-resident agents and business entities. While the possibility of incurring the additional fees serves as a deterrent from noncompliance; the provision of fees itself represents an adverse impact to business as described in ORC 107.52. Because this is an amended rule package, our analysis focuses on the adverse impacts of the amendments. The entire rule will be evaluated for its adverse impact during the

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five-year rule review.

The proposed amendments are a result of industry complaints about fees. ODI began working with stakeholders to determine a more acceptable fee amount. The amended portions of the rule reflect stakeholder input to reduce fees for filing a late renewal license – from \$100 to \$50 – and for filing a renewal application during the reinstatement period – from \$300 to \$100. In addition, an amendment was added to provide the Superintendent of the Department of Insurance the authority to waive the fees under certain circumstances.

After working with various groups during its stakeholder outreach, ODI emailed the proposed language to a comprehensive list of stakeholders. For the purposes of the rule at hand, and the effect of the amended sections, this level of stakeholder involvement is acceptable. The amended rule and BIA were filed with the CSI Office on July 18, 2012, and the comment period for the rule closed on July 31, 2012. No comments were received during that time.

Review of the rules and the associated BIA motivated additional inquiry and a request for a revised BIA to include additional information, specifically related to explaining the adverse impact to business from the rule. After reviewing the proposed rule and the associated revised BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule justifies the adverse impact identified in the BIA.

Recommendations

For the reasons explained above this office does not have any recommendations regarding this rule change.

Conclusion

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mary Taylor, Lt. Governor and Director, Ohio Department of Insurance