

**MEMORANDUM**

TO: Jarrett Dunbar – Ohio Department of Insurance

FROM: Todd Colquitt, Business Advocate

DATE: November 21, 2012

RE: **CSI Review – 2012 Five-Year Rule Review**

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. This memo represents the CSI Office’s comments to the Agency as provided for in ORC 107.54.

Analysis

Pursuant to Ohio Revised Code 119.032, agency rules are subject to review five years after their effective date. Accordingly, the Ohio Department of Insurance (“ODI”) reviewed thirteen (13) rules subject to ORC 119.032. Five (5) of the rules are to be continued with no change; four (4) are to be amended; and four (4) are to be rescinded in their entirety.

1. OAC 3901-1-18: Ohio Fair Plan – Plan of Operation

The Ohio Fair Plan was created for the purpose of making basic property and homeowners’ insurance coverage available for qualified property owned by persons unable to secure such insurance in the normal insurance market and implements sections 3929.41 through 3929.49 of the Ohio Revised Code (inclusive). ODI proposes no changes to the existing rule.

2. OAC 3901-1-20: Independent Filings

The rule permits, with an independently filed rating plan, the use of any fire or casualty policy form previously filed by or on behalf of a company, whenever a previously filed

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form is not specifically referred to in the newly filed plan. ODI proposes to rescind this existing rule – which dates to 1967 -- in its entirety.

3. OAC 3901-1-21: Catastrophe Coverage

The rule provides for the writing of catastrophe policies with a minimum retention by the insured of \$100,000 for loss or damage to property by fire and allied lines. ODI proposes to rescind this existing rule – which dates to 1967 -- in its entirety.

4. OAC 3901-1-22: Risk and Expense Modification Plans

The maximum credit and debit that may be applied to an individual risk premium modification are outlined in this rule. ODI proposes to amend the rule – which dates to 1973 – to clarify how individual credits and debits may be applied to such plans.

5. OAC 3901-1-23: Inland Marine Risks

The purpose of this rule is to accept the National Association of Insurance Commissioners (“NAIC”) definition of inland marine risks. ODI proposes no changes to this existing rule.

6. OAC 3901-1-25: Ohio Insurance Guaranty Association

This rule was originally adopted to establish the plan of operation of the Ohio Insurance Guaranty Association. However, while the authorizing statute (ORC 3955.09) required a plan of operation, it required only that it be submitted to and subject to approval by the Superintendent of Insurance. ODI proposes to rescind this existing rule in its entirety, for the reason that the existing rule is superfluous in that it does not amplify any statutory authority.

7. OAC 3901-1-31: Group Insurance Regulations

The purpose of this rule is to outline the limited circumstances in which an insurer may underwrite property and casualty insurance on a group basis. ODI proposes no changes to this existing rule.

8. OAC 3901-1-55: Credit History and Credit Scores

This rule implements requirements of the federal Fair Credit Reporting Act by defining unfair practices by insurers in conjunction with use of customer credit reports and scores in underwriting and rating personal lines of coverage. ODI proposes no changes to this existing rule.

9. OAC 3901-1-66: Surety Bail Bond Agent Conduct

The standards for surety bail bond agent conduct are set forth in this rule. ODI originally proposed to amend this rule in an effort to reduce rebating complaints received at the Department about bail agents. However, as a result of post-comment cycle feedback received by ODI Staff from surety bail bond agents, ODI decided against amending the rule at this time, proposing instead no changes.

10. OAC 3901-6-04: Life Insurance Illustrations

This rule provides acceptable formats for illustrations and prescribes standards to be used when illustrations are used, including requisite disclosures. ODI proposes to amend this existing rule by making a non-substantive text change to a definition.

11. OAC 3901-6-06: Accelerated Benefits

Regulates the accelerated death benefit provisions of individual and group life insurance policies, including required disclosures and actuarial standards. ODI proposes to amend this existing rule to bring it into line with the Interstate Insurance Product Regulation Compact's ("IIPRC") standards for accelerated death benefits.

12. OAC 3901-6-07: Universal Life Insurance

This rule provides for the minimum non-forfeiture values, minimum valuation of reserve requirements, and specific minimum policy provisions for universal life insurance products. ODI proposes to amend this existing rule by making non-substantive textual changes.

13. OAC 3901-6-09: Valuation of Life Insurance Policies and Annuities

This rule was established in anticipation of the deployment of a specific software system for Ohio domestic life insurers to use when submitting life insurance policy valuation information to the Department for certification. However, the software system was never deployed, nor does the Department currently intend to adopt said software platform. ODI proposes to rescind this existing rule in its entirety.

With the exception of Rules 25 and 66, the Department initiated stakeholder outreach in June 2012 (stakeholder outreach for Rule 25 (Ohio Insurance Guaranty Association) and Rule 66 (Surety Bail Bond Agent Conduct) commenced in January 2012 and July 2012, respectively). ODI distributed notice of its proposed rules and the respective Business Impact Analyses ("BIAs") to its stakeholders on September 18, 2012, seeking comments on the BIAs by stakeholders by September 26, 2012. No comments were submitted by any party on any of the BIAs during the comment cycle. However, as a result of post-comment cycle feedback received by ODI Staff from surety bail bond agents on the proposed changes to Rule 3901-1-66, ODI decided against amending the rule at this time.

Upon completion of the comment cycle for the BIAs on September 26, 2012, the CSI Office communicated with ODI Staff to discuss questions about the original BIAs. Specifically, the CSI Office requested additional clarity regarding measures of success, identifying specific adverse business impacts, and small business flexibility.

After reviewing the proposed rule package, comments (of which there were none), the associated original BIAs, and the revised BIAs; the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office and the purpose of the rule package justifies the adverse impacts identified in the revised BIAs

Recommendations

For the reasons described above and incorporated into the revised BIAs, the CSI Office has no recommendations regarding the actual rules contained in this rule package.

Conclusion

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

cc: Michael Farley, Assistant Director for Legislative Affairs, Ohio Department of Insurance
Mark Hamlin, Lt. Governor's Office