



## MEMORANDUM

**TO:** David E. Miran, Jr., Ohio Department of Agriculture

**FROM:** Sean T. McCullough, Regulatory Policy Advocate

**DATE:** January 27, 2015

**RE:** **CSI Review – Auctioneer License Examination and Application Requirements (OAC § 901:8-2-03)**

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

### I. INTRODUCTION AND BACKGROUND

On October 10, 2014, the Ohio Department of Agriculture (“ODA”) submitted a rule package containing one (1) amended rule. The rule was submitted as a result of the five-year review requirement contained in state statute. The rule outlines the application and examination requirements for an individual wishing obtain an auctioneer’s license. ODA cites R.C. § 4707.19 as authority to establish this rule. The official public comment period closed on November 3, 2014.<sup>1</sup> No comments were submitted.

### II. ANALYSIS

#### A. ADVERSE IMPACT ON BUSINESS

As indicated by ODA in the BIA, the scope of the business community impacted by this rule consists of all Ohio auctioneers.

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<sup>1</sup> The delay in the issuance of this recommendation memo was due to confusion about some technical issues during the notification phase of this rule package.

According to ODA, all individuals wishing to act as an auctioneer in Ohio must obtain an auctioneer's license. The rule requires such an individual to apply to take, and successfully pass, a licensing examination. The rule requires the applicant to provide certain identification information to ODA prior to the examination, such as name, address, photograph, etc. Applicants must also pay a fee of \$25 to take the examination. The rule also requires licensees to carry their license identification cards at all times in which they are acting in their capacity as auctioneers.

The above provisions require the submission of an application, reporting of information, and payment of fees as a condition of compliance. All of these requirements are enumerated in R.C. § 107.52, and therefore, these provisions are considered adverse impacts to business.

#### **B. JUSTIFICATION FOR ADVERSE IMPACT**

According to ODA, the Department reached out to stakeholders early in the review process and stakeholders supported the proposed rules. ODA argues that these rules are necessary because statute requires their creation. Through additional conversations with ODA, CSI understands that the licensing of auctioneers is necessary from a policy perspective because auctioneers create contractual relationships with customers through which the auctioneer takes possession of the customer's goods and there is a monetary transaction. ODA also argues that the examination of a potential licensee ensures that licensees have proper substantive and ethical knowledge, which lessens the likelihood that the licensee will take advantage of vulnerable populations of customers.

CSI is satisfied with the Department's justification because (1) ODA included stakeholders from an early stage of rule review, (2) CSI has received no stakeholder comments, and (3) ODA has created these rules pursuant to statute, and examination of potential licensees helps to provide qualified and ethical auctioneers. Accordingly, these rules have been sufficiently justified by ODA.

### **III. RECOMMENDATIONS**

For the reasons explained above, this office has no recommendations regarding this rule package.

### **IV. CONCLUSION**

As this rule package contains no adverse impacts to business, ODA may proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office