

**MEMORANDUM**

TO: Vicki Rich, Ohio Department of Insurance

FROM: Cory Bailey, Regulatory Policy Advocate, Lt. Governor's Office

DATE: January 25, 2016

RE: **CSI Review – Ohio Fair Plan – Plan of Operation (OAC § 3901-1-18)**

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.

Analysis

On January 6, 2016, the Ohio Department of Insurance (ODI) submitted one amended draft rule to the CSI Office for review. Since the rule is not being evaluated as part of the five-year rule review requirement, this recommendation will only cover the amendments to the rule. The official public comment period closed on January 22, 2016 with no comments submitted.

The draft rule establishes a plan of operation for the Ohio Fair Plan Underwriting Association (OFP). OFP is an organization created by statute that is supported by all of the property insurance companies licensed in Ohio. As ODI describes in the BIA, OFP is authorized to write basic property and homeowners insurance to assist applicants in urban areas to secure basic 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. OFP has a statutory obligation to create a plan of operation to be approved by the superintendent of insurance, which is found in OAC § 3901-1-18.

While there are several amendments to the rule, there is only one substantive change. With the program being Ohio specific, OFP is allowed under the current plan of operation to pay commission to resident agents, but not to non-resident agents. However, it is becoming more common for resident agents to operate under the umbrella of a non-resident agency. As a result,

OFP has asked that a provision be added that allows for commission to be paid to non-resident agencies for assistance provided by a resident agent affiliated with that non-resident agency.

The amendment will result in a greater number of agents participating in the program. While this may adversely impact current participants, the change is a positive development for resident agents affiliated with non-resident agencies and aligns with changes in the industry. Additionally, OFP has asked for the amendment following a request by the Professional Insurance Agents Association of Ohio (PIAA), and according to the BIA, the Ohio Insurance Institute (OII) and Property and Casualty Insurers Association of America (PCI) have reviewed the rule and support the change.

Following review of the proposed amendments, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the amendments are justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

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

cc: Mark Hamlin, Lt. Governor's Office