

**MEMORANDUM**

**TO:** Allison Conklin, Ohio Department of Insurance

**FROM:** Emily Kaylor, Regulatory Policy Advocate

**DATE:** August 17, 2016

**RE:** **CSI Review – Title Insurance (OAC 3901-7-01 through 3901-7-04)**

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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 (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**

This rule package consists of one amended and three no-change rules submitted by the Ohio Department of Insurance for their statutorily required five-year review. It was submitted to the CSI Office on June 24, 2016 and the comment period closed on July 12, 2016. Two comments were received during this time.

The rules oversee the annual review of title insurance agent escrow accounts, establish surety bond requirements, define notice standards to be provided to mortgagors by title insurance agents, and explain prohibitions of certain entities from being licensed as title insurance agencies. Amendments are proposed to OAC 3901-7-04 to format the rule in uniformity with the others and remove a grandfather clause that previously allowed established title insurance businesses to be controlled by one or more prohibited persons.

The BIA explains the associated costs with each rule in the package. For example, OAC 3901-7-01(D) requires title insurance agents handling escrow accounts to file an independent annual review and 3907-7-01(G) requires the independent reviewer be a certified public accountant (CPA). The BIA estimates costs for CPA reviews ranging from \$800 to \$1,000 per review.

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Additionally, title insurance agents handling escrows in real property transactions not involving the issuance of title insurance must have a surety bond of at least \$150,000, and if they do not, then they face suspension or revocation of their title insurance licenses.

One comment received during the CSI comment period from the Ohio Association of Independent Title Agents (OAITA) expressed concerns and frustrations with OAC 3901-7-04 regarding business arrangements. The other comment expressed support for OAITA's comment. After further discussions between OAITA and CSI, there appears to be some regulatory issues in the industry both on the federal and state level that go beyond the language contained in these rules. The Department has agreed to continue a dialogue with OAITA and potentially others in this industry to discuss these concerns in an effort to identify concerns and possible resolutions.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

### **Recommendation**

For the reasons explained 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