



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Aaron Johnston, Ohio Department of Commerce

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: April 8, 2019

RE: **CSI Review – Manufactured Homes Program (OAC 4781-1-01, 4781-1-02, 4781-1-03, 4781-2-01 through 4781-2-05, 4781-3-01, 4781-4-01, 4781-5-01, 4781-6-01 through 4781-6-03.11, 4781-7-01 through 4781-7-10, 4781-8-01 through 4781-8-11, 4781-9-01 through 4781-9-06, 4781-10-01, 4781-11-01 through 4781-11-22, and 4781-12-01 through 4781-12-32)**

On behalf of Lt. Governor Jon Husted, 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This rule package consists of 94 amended rules, 21 rescinded rules, 10 new rules and one no-change rule proposed by the Ohio Department of Commerce (ODC) as part of the statutorily-required five-year review requirement. ODC submitted the rule package to the CSI Office on January 11, 2019 and held the public comment period open through January 25, 2019. ODC provided the CSI Office with its response to comments on March 22, 2019.

The rules in this package set forth the requirements for the Ohio Manufactured Homes Commission (OMHC). The duties of OMHC were distributed to ODC in HB 49 of the 132nd General Assembly and many of the amendments to the rules reflect this change. Ohio Administrative Code (OAC) 4781-1-01 through 4781-1-03, 4781-2-01 through 4781-2-05, 4781-3-01, and 4781-5-01 establish the OMHC and its membership, meeting schedule, and public hearing procedure. The rules are proposed for rescission, as the authorizing statute was amended by HB 49 and the duties of the

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OMHC were transferred to ODC. OAC 4781-4-01 establishes the position and duties of the executive director of the OMHC and is being amended to allow the ODC Director to delegate duties to the ODC Division of Industrial Compliance and Division of Real Estate and Professional Licensing. OAC Chapter 4781-6 sets forth standards for the installation of manufactured homes. The rules include requirements for preparation and installation of foundations, plumbing and electrical systems, and additional topics of home installation. The rules are largely being amended to update references, provide clarification, and amend the rule language to reflect the reassignment of duties to the ODC. Additional amendments are proposed to allow ODC to assign third-party inspection agencies. OAC Chapter 4781-7 establishes requirements for inspections of manufactured homes. The rules establish the jurisdiction of inspectors, requirements for inspections, and permits and plans reviews. Amendments to the rules include clarifications to certification standards, allowing additional fees determined by an inspector, and revising fee payments, as well as revisions to the rule that reflect ODC assuming the duties of OMHC. OAC Chapter 4781-8 sets forth requirements for licensing of manufactured home installers, including application and renewal procedures, education and training standards, and complaints and adjudication hearing requirements. Amendments are being made to the rules to clarify the requirements, amend the application process, and address multiple topics within the education requirements. OAC 4781-8-05.1 is a new rule that directly addresses installations performed by homeowners. OAC Chapter 4781-9 establishes continuing education requirements for manufactured home installers and inspectors. The rules include changes that address ODC assuming the duties of OMHC, revised fee structures, and ODC approval of continuing education courses. OAC 4781-10-01 sets forth the process for dispute resolution regarding defects of warranty issues and is being amended to allow alternative dispute resolution. OAC Chapter 4781-11 describes the licensing ability of OMHC with regards to dealers, brokers, and salespersons of manufactured homes. Amendments to the rules largely consist of changes that reflect ODC assuming the duties of OMHC, as well as updating requirements for notice provision, fees, and reporting. OAC Chapter 4781-12 establishes requirements for manufactured home parks, including procedure for licensure, development plans, flood plain management, utilities, and resident management. The rules are largely being updated to address ODC assuming the duties of OMHC, as well as changes to flood plain management and utilities.

During early stakeholder outreach, ODC sent the rules to relevant industry stakeholders, including consumer advocates, industry associations, and government agencies. ODC received comments from several stakeholders during this time, which addressed various topics throughout the rules. Comments focused on installation standards and suggested changes to the rules regarding federal used home standards and alternative foundation designs. ODC revised the rule regarding federal standards as suggested and stated that the alternative foundation rules already provide for the suggested change. Comments regarding inspections suggested changes to language pertaining to ODC-employed inspectors and inspection procedure. ODC did not amend the rules, stating that the

changes would provide create delays in the inspection procedure. Comments regarding licensing addressed requirements to have a licensed installer on-site during installation and homeowner installation. ODC revised the rules to reflect US Department of Housing and Urban Development provisions. ODC did not alter rules regarding homeowner installation, as the requirements are enshrined in statute. ODC received one comment that addressed continuing education, which suggested that industry experts should be able to offer continuing education courses. ODC did not create changes, as the rules already allow industry experts without conflicts of interest to teach courses. Comments concerning manufactured home parks suggested changes and requested clarification regarding resident notification, inspection and flood management permits, utilities, and maintenance. In response to stakeholder comments, ODC provided clarification where appropriate but did not make changes to the rules, stating that the requested change is outside the scope of ODC's rulemaking authority.

During the CSI public comment period, ODC received comment from two stakeholders. One comment suggested amending the rules to exempt local building and health departments from insurance and bonding requirements. ODC did not make changes to the rules regarding this comment, stating that certified local building departments and health departments are already exempt from insurance and bonding requirements, and it is only when they decide to become a third-party inspection agency that they would require insurance and bonding, since all third-party inspection agencies should subject to the same requirements. Another comment asked ODC for clarification regarding signage, to which ODC responded that existing signage can be used and businesses will not be required to repurchase new signs.

The business communities impacted by the rules include all businesses and individuals licensed through the OMHC, which includes manufactured home installers, park operators, manufacturers, and inspectors, as well as manufactured home owners. The adverse costs created by the rules largely include adherence to the licensing, inspection, and safety standards set forth in the rules. Many of these standards are prescribed by Ohio statute to establish safe housing environments. The rules also require the payment of fees for certification and licensure, as well as penalties for violations of the rules. Many of the amendments made by ODC seek to reduce or remove certain fees from the rules and alternatively decrease the burden these fees present in certain situations. ODC states in the BIA that the rules in this package set forth uniform guidelines for installation of manufactured homes, which protect homeowners by ensuring that homes are properly installed and inspected. ODC also states that the rules protect consumers by requiring standards for licensees and manufactured home park operations.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Ohio Department of Commerce should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.