



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

**TO:** Loretta Medved, Ohio Department of Insurance

**FROM:** Joseph Baker, Business Advocate

**DATE:** September 14, 2021

**RE:** **CSI Review – Mortgage guaranty insurance, Ohio mine subsidence insurance underwriting association and fund, public insurance adjusters, and misconduct by insurance license applicants and licensees (OAC 3901-1-13, 3901-1-24, 3901-1-48, and 3901-5-12)**

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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 Department as provided for in ORC 107.54.

#### Analysis

This rule package consists of one no change and three amended rules proposed by the Ohio Department of Insurance (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on July 20, 2021, and the public comment period was held open through August 3, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 20, 2021.

The rules in this package establish regulations related to providing mortgage guaranty insurance, establish standards of conduct and records requirements for public insurance adjusters, implement definitions and regulations related to the Ohio Mine Subsidence Underwriting Association, and establish standards of conduct for insurance license applicants and licensees.

OAC 3901-1-13 sets forth definitions related to mortgage guaranty insurance and requirements for business engaged in providing such insurance. The rule prohibits businesses from selling mortgage

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guaranty insurance unless they have capital and surplus of at least \$2,500,000, institutes geographic limits on the concentration of insurance in certain regions, limits certain advertising practices, and establishes other regulations related to mortgage guaranty insurance companies. The rule is amended to update terms related to federal offices and to remove a prohibition on the Superintendent of Insurance (Superintendent) granting a waiver after October 1, 2014.

OAC 3901-1-24 establishes regulations related to public insurance adjusters. The rule prohibits any public insurance adjuster or agent from engaging in business related to the repair or remodel of certain insured properties, soliciting a loss during a fire or interfering with fire investigators, offering a portion of the adjuster's fee in an effort to secure a contract, representing himself or herself falsely, acting dishonestly with respect to estimates of loss or damage, or owning any property connected to a loss that the adjuster is reviewing, among others. The rule also establishes records retention requirements, contractual limitations, restrictions on insurers, and allows for the Superintendent to revoke or suspend the license of an adjuster who violates the rules. The rule is amended to remove gender pronouns related to insurance adjusters.

OAC 3901-1-48 implements definitions and regulations related to the Ohio Mine Subsidence Underwriting Association and the Mine Subsidence Insurance Fund. The rule provides that the association and fund shall be administered by a board made up of various designees of state agencies and requires that every policy of mine subsidence insurance may not create liability on the part of the member issuing the policy beyond the net premium of policies paid into the fund. The rule also establishes standards related to applying for coverage, administering and processing claims, underwriting, audits, reporting and statistics, investment of custodial funds, reinsurance, and meeting notices. The Department notes in the BIA that the rule is amended to remove the Superintendent from the board overseeing the Mine Subsidence Underwriting Association and the Mine Subsidence Insurance Fund in connection to a statutory change.

OAC 3901-5-12 establishes standards of conduct related to insurance license applicants and licensees and outlines behavior that may be subject to disciplinary action. For example, the rule prohibits an individual from soliciting insurance when the solicitor knew that the customer is currently covered by substantially duplicative coverage or where the customer would not be entitled to the benefits of coverage due to various reasons. The rule also states that insurance companies may be found to have engaged in unfair or deceptive practices if an employee engages in such conduct and where the company has either tolerated, ratified or encourage the behavior, if it failed to notify the Department when a violation known by the business has occurred, or if it fails to refund premiums or payments when the company's agent has violated a law or rule.

During early stakeholder outreach, the Department notified stakeholders including the Ohio Mine

Subsidence Insurance Underwriting Association, the Ohio Land Title Association, the Ohio Insurance Institute, the Association of Ohio Life Insurance Companies, the American Council of Life Insurance, the National Association of Insurance and Financial Advisors, Ohio Association of Health Plans, and the Professional Independent Agents Association, among others. No comments were provided in response to the request for early stakeholder feedback or during the CSI public comment period.

The business communities impacted by the rules include mortgage guaranty insurers, licensed public insurance adjusters, insurers who write basic property or homeowner policies for family dwellings and who are required to offer mine subsidence coverage to all eligible applicants, and insurance license applicants, licensees, or companies licensed or authorized to transact in insurance. The adverse impacts created by the rules include maintaining minimum reserves, notification requirements, potential disciplinary action related to violating standards of conduct, administrative effort and costs associated with applying for and renewing a public insurance adjuster license (\$100 and \$50, respectively), submitting quarterly reports to the Ohio Mine Subsidence Insurance Underwriting Association, and notifying the Department when employees or agents engage in misconduct. The Department states in the BIA that the adverse impacts created by the rules are necessary to assist in maintaining a stable and competitive industry and protect consumers from conflicts of interests or other actions that may cause financial harm.

### **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 Insurance should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.