



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Jacquie Keller-Potvin, Ohio Department of Agriculture

FROM: Jacob Ritzenthaler, Business Advocate

DATE: November 23, 2022

RE: **CSI Review – Auctioneer Program (OAC 901:8-2-01 through 901:8-2-11 and 901:8-3-01 through 901:8-3-07)**

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This rule package consists of seven amended rules, nine rescinded rules, and two no-change rules proposed by the Ohio Department of Agriculture (Department). This rule package was submitted to the CSI Office on October 6, 2022, and the public comment period was held open through October 28, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 6, 2022.

Ohio Administrative Code (OAC) Chapters 901:8-2 and 901:8-3 set forth requirements for auctioneers and auction schools. OAC 901:8-2-01 lists meeting requirements for the Auctioneer's Commission (Commission) and is amended to include information regarding the Commission's task to establish requirements and standards for auctioning, as well as to increase the per diem for Commission members. OAC 901:8-2-02 establishes requirements for depositing or returning an apprentice auctioneer license and is proposed for rescission as the apprentice auctioneer program was removed from statute. OAC 901:8-2-03 concerns license deposit and return requirements for auctioneers and is amended to remove licensure information that is being added to OAC 901:8-2-07. OAC 901:8-2-04 establishes license procedure for nonresidents and proposed for rescission.

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OAC 901:8-2-05 lists the changes that require notification of the Department and license renewals and is amended to include information regarding license renewal and the online license portal. OAC 901:8-2-06 regards written contracts and is amended to include auction record retention requirements. OAC 901:8-2-07 establishes license and exam procedures for licensees and is amended to include requirements for applicants seeking reciprocal licensure, examination passing grades for auctioneers and auction firm managers, and record retention requirements. OAC 901:8-2-08 lists the classification of offenses and is amended to remove requirements for apprentice auctioneers. OAC 901:8-2-09 concerns the auctioneer fund and is proposed without changes. OAC 901:8-2-10 sets forth the procedure for filing a claim against an auction firm and is amended to revise the rule title. OAC 901:8-2-11 establishes requirements for online auctions held in conjunction with live auctions and is proposed for rescission.

OAC 901:8-3-01 through 901:8-3-07, which contain requirements related to auction schools, are proposed for rescission. The Department states that the auction school licenses and renewals will be approved during Ohio Auctioneer Commission meetings going forward.

During early stakeholder outreach, the Department sent the rules to industry stakeholders for feedback and posted the rules on the Department's website. No comments were received during that time or during the CSI public comment period.

The business community impacted by the rules includes all licensed auctioneers and auction firms. The adverse impacts created by the rules include fees for examinations and licensure, as well as the time and effort spent to pass a written examination. License fees cost \$200 for both auctioneers and auction firms and must be renewed biennially. Examination fees cost \$25 for auctioneers and \$15 for auction firm managers. The Department states that the adverse impacts are necessary to protect consumer transactions and ensure that auctioneers have the required expertise to conduct fair auctions.

Recommendations

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

Conclusion

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