



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Kimberley Wells, Ohio Department of Commerce, Division of Real Estate and Professional Licensing

FROM: Jacob Ritzenthaler, Business Advocate

DATE: December 18, 2024

RE: **CSI Review – Division of Real Estate OAC 1301:5 Five Year Review (OAC 1301:5-1-01 through 1301:5-1-07, 1301:5-1-09, 1301:5-1-12 through 1301:5-1-23, 1301:5-3-01, 1301:5-3-02, 1301:5-3-04, 1301:5-3-07, 1301:5-3-09, 1301:5-3-13 through 1301:5-3-16, 1301:5-5-01, 1301:5-5-06 through 1301:5-5-09, 1301:5-5-11, 1301:5-5-23, 1301:5-5-24, 1301:5-5-25, 1301:5-5-30, 1301:5-6-01 through 1301:5-6-10, and 1301:5-7-02 through 1301:5-7-09)**

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This rule package consists of nine amended rules, forty-seven no-change rules, and one rescinded rule proposed by the Ohio Department of Commerce (Department), Division of Real Estate and Professional Licensing (Division). This rule package was submitted to the CSI Office on November 14, 2024, and the public comment period was held open through December 6, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on November 14, 2024.

Ohio Administrative Code (OAC) Chapter 1301:5-1 establishes requirements for licensing, including applications, fees, and license reactivation or renewals. OAC 1301:5-1-04 concerns applications for licensure and is amended to remove language that would apply the requirements only to initial licensure. OAC 1301:5-1-05 establishes requirements for examinations and is amended to update the

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application processing fee for real estate brokers from \$100 to \$35 and increase the fee for real estate sales licenses from \$60 to \$81 to reflect statute. OAC 1301:5-1-06 sets forth requirements for the termination of a brokerage affiliation, including the return of a license and notification of the Division by a brokerage. The rule includes amendments that require a written notice for a transfer application be made available for review by Division personnel upon request, as well as to require the license transfer certification to be provided to process the transfer. OAC 1301:5-1-09 establishes the fees associated with licensure and is amended to update the fee for reactivation of an inactive salesperson's license and broker's license on deposit. OAC 1301:5-1-12 sets forth requirements for open public meetings of the Ohio Real Estate Commission (Commission) and is amended to update the mailing address of the Commission. OAC 1301:5-1-19 establishes requirements for license reactivation and renewal and is amended to remove a licensee's good reputation as criteria. OAC 1301:5-1-23 concerns the criminal records checks necessary for applicants and licensees and is amended to state that a criminal records check must be initiated upon initial application. OAC 1301:5-1-01, 1301:5-1-02, 1301:5-1-03, 1301:5-1-07, 1301:5-1-13, 1301:5-1-14, 1301:5-1-15, 1301:5-1-16, 1301:5-1-17, 1301:5-1-18, 1301:5-1-20, 1301:5-1-21, and 1301:5-1-22 are proposed without changes.

OAC Chapter 1301:5-3 establishes requirements for broker licensing, including reports, recommendation and appointment of ancillary trustees, educational loans and instruction, and settlements. OAC 1301:5-3-09 allows the Commission to enter into reciprocity agreements with licensing bodies or agencies from other states. The rule is proposed for rescission. OAC 1301:5-3-01, 1301:5-3-02, 1301:5-3-04, 1301:5-3-07, 1301:5-3-13, 1301:5-3-14, 1301:5-3-15, and 1301:5-3-16 are proposed without changes. OAC Chapter 1301:5-5 sets forth general provisions for licensees, including those concerning referral fees, licensure exemption, trust accounts, informal mediation meetings, and applications for reconsideration. OAC 1301:5-5-01 requires a statement to be displayed concerning illegal and discriminatory practices and the availability of a pamphlet. The rule is amended to increase the minimum size of the displayed statement to eleven inches by fourteen inches. OAC 1301:5-5-06, 1301:5-5-07, 1301:5-5-08, 1301:5-5-09, 1301:5-5-11, 1301:5-5-23, 1301:5-5-24, 1301:5-5-25, and 1301:5-5-30 are proposed without changes.

OAC Chapter 1301:5-6 establishes requirements concerning management level licensees, open house hosting, company policies on agency relationships and agreements, negotiations with purchasers or tenants, and the residential property disclosure form. The rules in this chapter are proposed without changes. OAC Chapter 1301:5-7 establishes requirements for continuing education, including course approvals and denials, completion and certificates, fees, instructors, and distance education. OAC 1301:5-7-03 sets forth the criteria for course approvals and is amended to allow a salesperson or broker to receive core law continuing education credits for working as an election official or attending a monthly Commission meeting. OAC 1301:5-7-01, 1301:5-7-02, 1301:5-7-04, 1301:5-7-05, 1301:5-7-06, 1301:5-7-07, 1301:5-7-08, and 1301:5-7-09 are proposed without changes.

During early stakeholder outreach, the Division reviewed the proposed rules during public meetings of the Commission. In response to feedback received during that time, the Division amended the rules to update the size of fair housing statements to align with federal requirements and to allow continuing education credit to be earned through working as an election official. During the CSI public comment period, no comments were received.

The business community impacted by the rules includes all brokerages and real estate licensees. The adverse impacts created by the rules include license applications and fees, returning or replacing a license, checking criminal records, and assessing a brokerage annually. The rules also require compliance with requirements for license effective dates, displaying fair housing statements, and advertising. Fees for license applications are set in statute and cost \$135 for a broker license and \$81 for a sales license. Failure to comply with rule requirements may result in sanctions, including additional education, fines of up to \$2,500 per violation, and suspension or revocation of a license. The Department notes that the amendments reduce the regulatory burden on businesses by streamlining language and removing “good reputation” requirements. The Department states that the adverse impacts are necessary to protect the public, due to the level of financial investment involved in real estate transactions and involvement of real estate licensees.

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.