

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Department of Commerce

Regulation/Package Title: Insurance Premium Finance Companies

Rule Number(s): 1301:8-4-01, 1301:8-4-02, 1301:8-4-03; 1301:8-4-0 4. All are amendments.

Date: November 6 , 2014

Rule Type:

- New
 Amended

- 5-Year Review
 Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The Insurance Premium Finance Company Act licenses and regulates persons who enter into or acquire premium finance agreements.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

O.A.C. 1301:8-04-01 defines certain terms found in the Act, as well as O.A.C. Chapter 1301:8-4. This amendment contains minimal changes to the rule which mostly reflect updates in federal law.

O.A.C. 1301:8-04-02 clarifies general licensing provisions found in the Act. Changes made to this rule are meant to lessen the regulatory impact on licensees and clarify when an incomplete application is deemed withdrawn. Licensees shall notify the Division of relocations at least fifteen (15) days prior to the effective date of an address change. Once notified, the Division will issue a license for the new location.

O.A.C. 1301:8-04-03 incorporates federal provisions meant to reduce the risk of consumer fraud. As applicable federal statutes and rules have been amended since the most recent version of this rule was promulgated, the Division has changed the "in effect" dates of the federal provisions to reflect current law.

O.A.C. 1301:8-04-04 prohibits advertising that is false, misleading, or deceptive, and mandates that all advertising materials be kept in a records file which shall be made available for the Division's inspection. In its current form, language in Section (B) of the rule requires the records file to be available for Division inspection "at all times". The phrase "at all times" is being amended to read "during regular business hours". This clarifies when the Division may inspect the files.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation. O.R.C. 1321.77.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

To provide necessary safeguards to insure the public entering into insurance premium finance agreements are protected from abuse and fraud, thus insuring the integrity of the industry itself.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Given that these rules have been in place for decades and compliance has not been problematic, the Division is confident that it is striking the correct balance between regulatory efforts and the goal of creating a business-friendly climate. The amendments to these rules place no extra burden on the industry in a monetary or operational sense. The Division will continue to monitor the industry and their submission of information required by the Insurance Premium Finance Act and its attendant rules to ensure that stakeholders understand and are adhering to regulatory standards.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

An e-mail was sent to all parties licensed under the IPFCA, approximately 39 companies. E-mails were also sent to Bill Faith of The Coalition on Homelessness and Housing, Linda Cook, Esq. of the Ohio Poverty Law Center, and T. Cook of the Ohio Bar Association.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The stakeholders offered no comment regarding the proposed amendments.

9. What scientific data was used to develop the rule or the measurable outcomes of the

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Division reviewed regulations relating to this industry and found no other state or federal regulations that were applicable.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

A performance-based regulation would not be applicable here.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

DFI reviewed existing statutes under the IPFCA and its companion rules for duplication. These laws are the only ones dealing with this industry, so there is no opportunity for duplication elsewhere.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The industry will be notified through the Division’s website, newsletter and outreach efforts.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

These regulations, as amended, impact those who are in the business of entering into or acquiring insurance premium finance agreements.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The impact to stakeholders from this rule is minimal and will remain largely unchanged because most of the amendments simply serve to reflect non-substantive changes in incorporated federal law (i.e. changes in rule numbers or administering federal agency), to change outdated language, or to strike redundant language. O.A.C. 1301:8-4-02(D) is a new section that limits the amount of time that new applicants can be nonresponsive to a request for additional information where their application is incomplete.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

These rules have been in effect for several decades and the industry has been compliant. The amendments to these rules incur very minor changes; the impact of these changes are minimal and there should be no new impacts which would affect stakeholders adversely.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

The Division seeks clarity, consistency and accuracy in its rules. As the changes should bring no new adverse impact upon stakeholders, the Division asserts that these amendments uphold the values stated above with little or no cost to the industry in any terms.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

To the extent that any stakeholders could be deemed “small businesses,” Division staff will work with them and aid them in understanding and complying with regulations. In reviewing these regulations, the Division attempted to ensure that small stakeholders would not be unduly burdened.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

There are no fines or penalties associated with these regulations.

18. What resources are available to assist small businesses with compliance of the regulation?

The Division has a website that licensees can use as a resource. Division personnel are available to perform outreach to the industry, and will send correspondence regarding these amendments individually to all licensees.