

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3901-1-57

Rule Type: Amendment

Rule Title/Tagline: Transaction fees.

Agency Name: Department of Insurance

Division:

Address: 50 W Town Street Suite 300 Columbus OH 43215

Contact: Tina Chubb **Phone:** (614) 728-1044

Email: Tina.Chubb@insurance.ohio.gov

I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 4/14/2023
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 3901.041, 3905.12, 3905.47, and 3905.471
5. What statute(s) does the rule implement or amplify? 3901.043
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule is being reviewed as a part of the agency five-year rule review.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

The purpose of this rule is to establish fees and charges for certain transactions or services required to be performed by the department of insurance.

Recommended amendments will reduce the agent appointment fee from \$15 to \$10, and amplify statute: specifically ORC 3901.07(L) and (M) which allow the department to recover its costs of financial surveillance of insurers doing business in Ohio. This review is conducted by examination every 3-5 years, and analysis done each calendar quarter. New paragraph F of Rule 3901-1-57 identifies the way and amounts that assessment should be done.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

There are no revenue impacts for the current biennium. Reducing the agent appointment fee from \$15 to \$10 will result in 22 million dollars of reduced revenue to ODI over the next biennium.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The fees in the rule impact insurance companies, affecting all lines of insurance for all companies doing business in Ohio.

The annual financial impact of company transaction and policy filing fees is dictated by the volume of transactions companies perform. The company transaction filings for new or revised policies and complex company structure changes and actions are statutorily required. The fees in the rule range from \$10 to \$2500 and include activities ranging from agent appointments and product filings to large company transactions such as mergers or re-organization of company structure.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Increased efficiency in operations paired with a growing insurance industry, has led to increased revenue without significant expenditures. The proposal to cut agent appointment fees in Ohio by 33 percent will lead to an estimated \$11 million savings for the industry each year.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
 - B. **Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

The rule establishes fees and charges for certain transactions or services required to be performed by the department of insurance.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

Reducing the agent appointment fee will reduce costs for the applicable lines of business.

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 3

(A) required

(G) Shall not

(G) shall

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.
Not applicable.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable

3901-1-57

Transaction fees.**(A) Purpose**

The purpose of this rule is to establish fees and charges for certain transactions or services ~~required to be performed by the department of insurance.~~

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3901.043, 3901.07, and 3913.37 of the Revised Code.

(C) The following schedule of fees is established for transactions and services performed under the following:**(1) Transactions pursuant to section 3901.321 of the Revised Code:**

- (a) Filing of the statement (form A) relating to the change of control or takeover of a domestic insurance company. Twenty-five hundred dollars.
- (b) Filing for an exemption from the requirements of section 3901.321 of the Revised Code. One thousand dollars.

(2) Transactions pursuant to section 3901.341 of the Revised Code:

Filing of any transaction (form D) required by this paragraph. Two hundred fifty dollars.

(3) Transactions pursuant to Chapter 3905. of the Revised Code:

- (a) Filing of a notice of appointment of an agent, including the renewal of an agent at the time of annual renewal. ~~Fifteen~~ Ten dollars/per appointment.
- (b) Filing for authority to conduct business as a surplus lines insurer. One thousand dollars/annually.

(4) Transactions pursuant to section 3907.12 of the Revised Code:

Filing for approval of a plan of reinsurance that exceeds the limits set forth in section 3907.12 of the Revised Code, or a plan of assumption reinsurance on policies issued by a domestic insurance company. Fifteen hundred dollars.

(5) Transactions pursuant to sections 3911.011, 3915.14, 3917.06, 3918.07, and 3923.02 of the Revised Code:

Any filing required to be submitted to the superintendent. Fifty dollars per insurer/per filing. Multiple forms relating to a single policy may be filed together for one fifty dollar fee, otherwise, each form filed is considered a separate filing and a fifty dollar fee applies to each.

(6) Transactions pursuant to sections 3913.01 to 3913.38 of the Revised Code:

- (a) Filing of a plan of conversion of a domestic stock life insurance corporation into a mutual insurance corporation. Twenty-five hundred dollars.
- (b) Filing of a plan of conversion of a domestic mutual life insurance company to a stock life insurance company. Twenty-five hundred dollars.
- (c) Filing of a plan of conversion of a non-life mutual insurance company to a stock non-life insurance company. Twenty-five hundred dollars.
- (d) Filing of a plan of reorganization or merger of a mutual insurance company or mutual insurance holding company. Twenty-five hundred dollars.

(7) Transactions pursuant to section 3913.40 of the Revised Code:

Filing of a plan to transfer the domicile of an insurance company either to or from the state of Ohio. Twenty-five hundred dollars.

(8) Transactions pursuant to section 3935.04 of the Revised Code:

- (a) Any filing required to be submitted to the superintendent. Fifty dollars per insurer/per filing. Multiple forms relating to a single policy may be filed together for one fifty dollar fee, otherwise, each form or policy is considered a separate filing and a fifty dollar fee applies to each.
- (b) Any excess rate filing required to be submitted to the superintendent pursuant to division (G) of section 3935.04 of the Revised Code is exempt from the filing fee.

(9) Transactions pursuant to section 3937.03 of the Revised Code:

- (a) Any filing required to be submitted to the superintendent. Fifty dollars per insurer/per filing. Multiple forms relating to a single policy may be filed together for one fifty dollar fee, otherwise, each form or policy is considered a separate filing and a fifty dollar fee applies to each.
- (b) Any special filing pursuant to division (E) of section 3937.03 of the Revised Code and any excess rate filing pursuant to division (G) of section

3937.03 of the Revised Code that are required to be submitted to the superintendent are exempt from the filing fee.

(D) Whenever another state or jurisdiction charges a greater fee for a transaction listed in this rule to an insurer domiciled in Ohio, then the superintendent may charge that higher fee to the insurer not domiciled in Ohio, who seeks to have the transaction completed in this state.

(E)

(1) The department will invoice the insurer for the fee charged for the transactions listed in paragraph (C)(3) of this rule.

(2) Fees charged for the transactions listed in paragraphs (C)(1), (C)(2), (C)(4), (C)(6) and (C)(7) of this rule shall be submitted with the first documents sent to the department.

(3) Fees charged for the transactions listed in paragraphs (C)(5), (C)(8) and (C)(9) of this rule shall be paid via the "EFT" functionality built into the "System for Electronic ~~Rate and Form Filings~~Rates and Forms Filing" commonly known as "SERFF".

(4) All fees collected pursuant to this rule shall be deposited to the credit of the department of insurance operating fund created pursuant to section 3901.021 of the Revised Code.

(F)

(1) For purposes of this Paragraph, "expenses" has the same meaning as set forth in division (M) of section 3901.07 of the Revised Code.

(2) Expenses incurred from the conduct of a financial examination authorized by division (B) of section 3901.07 of the Revised Code will be billed directly to the insurer.

(a) Such expenses authorized by division (M)(4) of section 3901.07 of the Revised Code are calculated at 0.96 of the amount assessed pursuant to division (M)(1)(a) of section 3901.07 of the Revised Code.

(b) Such expenses billed to the insurer are due upon the insurer's receipt of an invoice from the department pursuant to division (L) of section 3901.07 of the Revised Code.

(3) Expenses incurred pursuant to divisions (M)(1)(b) to (M)(1)(f) and (M)(4) of section 3901.07 of the Revised Code apart from the conduct of a financial examination authorized by division (B) of section 3901.07 of the Revised Code are assessed annually to the insurer.

(a) Such expenses for each domestic insurer are established pursuant to the following schedule, provided that the total amount due from an insurance holding company system with more than one domestic insurer is not to exceed one hundred twenty-five thousand dollars in the aggregate:

<u>Annual Countrywide Direct Premiums Written</u>	<u>Total Amount Due</u>
<u>\$100,000,000 or Greater</u>	<u>\$29,000</u>
<u>\$50,000,000 to \$99,999,999</u>	<u>\$19,000</u>
<u>\$25,000,000 to \$49,999,999</u>	<u>\$16,000</u>
<u>\$10,000,000 to \$24,999,999</u>	<u>\$13,000</u>
<u>\$5,000,000 to \$9,999,999</u>	<u>\$6,000</u>
<u>\$500,000 to \$4,999,999</u>	<u>\$1,600</u>
<u>Less Than \$500,000</u>	<u>\$500</u>

(b) Such expenses billed to the insurer are due upon the insurer's receipt of an invoice from the department.

~~(F)~~(G) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect. If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.

Effective:

Five Year Review (FYR) Dates: 4/14/2023

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3901.041, 3905.12, 3905.47, and 3905.471
Rule Amplifies: 3901.043
Prior Effective Dates: 04/21/1994, 10/08/2004, 03/21/2005, 11/22/2010,
06/30/2014, 11/15/2018

Common Sense
Initiative

Mike DeWine, Governor

Jon Husted, Lt. Governor

Joseph Baker, Director

Business Impact Analysis

Agency Name: Ohio Department of Insurance

Rule Contact Name: Loretta Medved

Rule Contact Information: loretta.medved@insurance.ohio.gov
1-614-644-0239

Regulation/Package Title (a general description of the rules' substantive content):
Transaction fee rule

Rule Number(s): 3901-1-57

Date of Submission for CSI Review: March 7, 2023

Public Comment Period End Date: March 21, 2023

Rule Type/Number of Rules:

☐ New/ rules ☐ No Change/ rules (FYR?)

☒ Amended/ **1** rules (FYR? **yes**) ☐ Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 requires agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- ☒ a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- ☐ b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- ☐ c. Requires specific expenditures or the report of information as a condition of compliance.
- ☒ d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

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

Rule 3901-1-57 authorizes statutorily required fees to be collected for services performed by the department for financial transactions and product review.

Amendments to the rule will reduce the agent appointment fee from \$15 to \$10, establishing the second significant cut in agent appointment fees in the past ten years. Increased efficiency in operations paired with a growing insurance industry, has led to increased revenue without significant expenditures. The proposal to cut agent appointment fees in Ohio by 33% will lead to an estimated \$11 million savings for the industry.

Additionally, the rule is amended to amplify statute: specifically ORC 3901.07(L) and (M) which allow the department to recover its costs of financial surveillance of insurers doing business in Ohio. This review is conducted by examination every 3-5 years, and analysis done each calendar quarter. New paragraph (F) of Rule 3901-1-57 identifies the way and amounts that assessment should be done.

3. Please list the Ohio statute(s) that authorize the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

Sections 3901.041 and 3901.043 of the Revised Code.

4. Does the regulation implement a federal requirement? ☐ Yes ☒ No

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?

☐ Yes ☒ No

If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. 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)?

The purpose of this rule is to establish appropriate fees for specified transactions between the department and insurance companies as described in section 3901.043 of the Revised Code.

Agent appointments are statutorily required to ensure that only properly licensed individuals are selling insurance products, and only through authorized relationships with each company. The proposed fee reduction will save industry an estimated 11 million dollars annually.

Financial surveillance exams are necessary to review each companies financial status and are an important part of monitoring the ongoing solvency of insurers. Proposed amendments will provide ease of understanding to the regulated community.

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

The department measures success by ensuring that the fees generated are sufficient to perform the required functions but are not excessive or burdensome on the Ohio insurance industry.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931? ☐ Yes ☒ No

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Not applicable.

Development of the Regulation

9. 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.*

In February 2023, an email requesting comment on the rule was sent to various stakeholders, interested parties, and trade associations who signed up for updates on the department's rules and bulletins. The department also reached out to the Association of Ohio Life Insurance Companies (AOLIC), the American Council of Life Insurers (ACLI), the National Association of Insurance and Financial Advisors (NAIFA), Ohio Insurance Institute (OII), American Insurance Association (AIA), and the Ohio Insurance Agents Association (OIA). The rule was also posted on the department's web site for review.

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

The Ohio Insurance Agents Association (OIA) submitted a letter of approval for the reduction of the agent appointment fee.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The department has analyzed the cost to perform the services provided and determined that the fees are adequate to sufficiently serve the companies and agents in regarding prescribed transactions. The proposed 33% reduction in agent appointment was found to be sufficient due to increased efficiencies in operations. The proposed amendments are designed to clarify language for ease of understanding.

12. 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? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

The intent of this rule is to establish fees for prescribed transactions performed by the department, industry fees are driven by utilization.

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

The department reviewed Ohio statutes and rules and determined that the rule does not duplicate other regulations.

14. 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 rule will be applied consistently and predictably through transactions described, which requires set fees to be applied to services performed by the department.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

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.

The fees in the rule impact insurance companies, affecting all lines of insurance for all companies doing business in Ohio.

The annual financial impact of company transaction and policy filing fees is dictated by the volume of transactions companies perform. The company transaction filings for new or revised policies and complex company structure changes and actions are statutorily required.

The fees in the rule range from \$10 to \$2500 and include activities ranging from agent appointments and product filings to large company transactions such as mergers or re-organization of company structure.

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.*)

Amendments to the rule will lower the agent appointment fee by 33% saving the industry 11 million dollars annually. Additional amendments will provide guidance and ease of understanding regarding the recovery of costs incurred during financial surveillance exams.

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

The transaction, filing and other fees delineated in the rule are not utilized at the same rate by the industry. The fees correlate directly to volume of activity performed by each company. The fees are weighted based on the scope of resources required to review each type of transaction or activity, and are designed to offset only those costs. Overall these fees balance the need to provide appropriate consumer protection with thorough reviews while not placing undue burden or impact on the industry. Analysis of all fee structures is ongoing continually.

Regulatory Flexibility

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

The costs associated with the fees are driven by utilization, so smaller companies are not likely to incur as many fees.

19. 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?

Minor errors would be handled by advising the insurance company and giving them an opportunity to remedy the omission.

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

Department staff is available to answer questions, regardless of the size of business. The department maintains dialogue with stakeholders and will be available to assist through the implementation process. Furthermore, the department provides filing information and instructions on its website.



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Loretta Medved, Ohio Department of Insurance

FROM: Michael Bender, Business Advocate

DATE: April 14, 2023

RE: **CSI Review – Transaction Fees (OAC 3901-1-57)**

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 amended rule proposed by the Ohio Department of Insurance (ODI) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on March 7, 2023, and the public comment period was held open through March 21, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 7, 2023.

Ohio Administrative Code (OAC) 3901-1-57 establishes fees for various transactions and services performed by ODI. The rule is amended to remove unnecessary language, update the language of the severability provision, reduce the agent appointment fee from \$15 to \$10, update the name of the System for Electronic Rates and Forms Filing, and provide a mechanism for ODI to recover costs incurred during the financial examination of insurers doing business in Ohio.

During early stakeholder outreach, ODI sent an email in February 2023 requesting comments on the proposed rule to various stakeholders, interested parties, and trade associations who signed up for updates on its rules and bulletins. ODI also reached out to the Association of Ohio Life Insurance Companies, the American Council of Life Insurers, the National Association of Insurance and Financial Advisors, the Ohio Insurance Institute, the American Insurance Association, and the Ohio

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Insurance Agents Association (OIA) for feedback. Additionally, ODI posted the rule on its website for review. OIA submitted a letter of approval of the agent appointment fee reduction. No comments were received during the CSI public comment period.

The business community impacted by the rule includes insurance companies doing business in Ohio. The adverse impacts created by the rule include paying the required fees for certain transactions and services performed with ODI. As set forth in the rule, the fees range from \$10 to \$2,500. ODI notes the agent appointment fee reduction will save the insurance industry approximately \$11 million annually. ODI states that the adverse impacts to business are justified to fulfill statutory law and provide consumer protection via thorough reviews of the insurance industry.

Recommendations

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

Conclusion

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

MEMORANDUM

To: Michael Bender, Business Advocate, Common Sense Initiative Office

CC: Joseph Baker, Director of the Common Sense Initiative Office

From: Loretta Medved, Policy Analyst

Date: April 14, 2023

Re: Response to CSI Review – Transaction Fees (OAC 3901-1-57)

On April 14, 2023, the Ohio Department of Insurance (the Department) received the Recommendation Memorandum (CSI Recommendation) from the Common Sense Initiative Office for rule 3901-1-57 Transaction Fees.

The CSI Recommendation stated that the office does not have any recommendations regarding this rule package, and therefore should proceed with a formal filing of the rule package.

At this time, the Department plans to move forward with the filing of this rule package with the Joint Committee on Agency Rule Review.

If you have any questions please contact Loretta Medved at 614-644-0239 or Loretta.Medved@insurance.ohio.gov.