



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Commerce, Division of Financial Institutions

Rule Contact Name and Contact Information:

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

Rules Relating to Check-Cashing Businesses

Rule Number(s): 1301:8-8-01 (no change); 1301:8-8-02 (no change);

1301:8-8-03 (no change); 1301:8-8-04 (no change); 1301:8-8-06 (no change)

Date of Submission for CSI Review: January 4, 2022

Public Comment Period End Date: \_\_\_\_\_

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/ 5 rules (FYR? Yes)

Amended/\_\_\_ rules (FYR? \_\_\_)

Rescinded/\_\_\_ rules (FYR?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 require 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.*

**1301:8-8-01, Definitions** (*No change*) – The rule sets forth definitions as used in sections 1315.21 to 1315.30 of the Revised Code and the corresponding administrative rules.

**1301:8-8-02, Licenses** (*No change*) – The rule clarifies licensing and regulatory requirements pertaining to check-cashing businesses.

**1301:8-8-03, Recordkeeping** (*No change*) – As required by section 1315.27 of the Revised Code, this rule sets forth the specific recordkeeping requirements for check-cashing businesses.

**1301:8-8-04, Business Practices** (*No change*) – As required by section 1315.27(B) of the Revised Code, the rule sets forth the acceptable business practices for check-cashing businesses.

**1301:8-8-06, Advertising** (*No change*) – The rule sets forth the regulatory requirements applicable to the advertising practices of licensed check-cashing businesses.

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3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority. R.C. 1315.27**
4. **Does the regulation implement a federal requirement? 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? No. *If yes, please briefly explain the source and substance of the federal requirement.***
5. **If the regulation 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)? These rules are required by section 1315.27 of the Revised Code. They provide guidance and clarification to both the industry and the Division.**
7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? Success will be measured by the clarity and guidance that these regulations will bring to stakeholders as it pertains to their regulatory interactions with the Division**
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? No. *If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.***

### **Development of the Regulation**

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. The rules and a request for comment was emailed to all check-cashing licenses and other interested parties on November 15, 2021. *If applicable, please include the date and medium by which the stakeholders were initially contacted.***
10. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? The Division did not receive any stakeholder comments.**
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? Not applicable.**
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? The**

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rules were thoroughly reviewed as part of the five year process, but the existing provisions have been proven to serve both the industry and the Division's purposes.

- 13. 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.* Many of the rules are performance-based, merely provide clarification of existing statutory requirements, or simply require Division notification upon the occurrence of certain events. Any regulations mandating compliance are necessary to carry out the provisions of the Check-Cashing Act.
- 14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** The Division is the primary regulators of check-cashing businesses and is not aware of any duplicative regulations.
- 15. 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.** As this is a no-change package, there will be no implementation other than continued application of the existing rules. Stakeholders were notified of the proposed no-change approach at the outset of the review process.

#### **Adverse Impact to Business**

- 16. 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 rules apply to check-cashing businesses subject to licensure by the Ohio Division of Financial Institutions. **and**
  - b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,);** Primarily employer time. **and**
  - 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.*

*1301:8-8-01, Definitions* – The rule does impact the cost of compliance, as it merely sets forth definitions as used in sections 1315.21 to 1315.30 of the Revised Code and the corresponding administrative rules.

*1301:8-8-02, Licenses* – Division (A) of the rule clarifies the required initial licensing fees due to the Division by a check-cashing business' main office and any of its additional business locations. This provision impacts the cost of compliance as follows: a \$750 fee for a check-cashing business' main office and for each additional business location if the license is issued between January 1 and June 30 (\$500 if the

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license is issued between July 1 and December 31). These fees cover the Division's licensing costs. The notification of specified events required by Divisions (C) and (D) may result in a minimal cost of time and resources.

*1301:8-8-03, Recordkeeping* – There may be a record storage and maintenance cost associated with the rule's recordkeeping requirements. However, many, if not all, of the required records are standard business records. There may be a minimal cost to print the records upon request of the Division in accordance with division (E)(12)..

*1301:8-8-04, Business practices* – As required by section 1315.27(B) of the Revised Code, the rule sets forth the acceptable business practices for check-cashing businesses, and generally does not have a direct impact on the cost of compliance. Division (D), however, would require a minimal expenditure of time and resources to provide the required customer receipt.

*1301:8-8-06, Advertising* – Ensuring compliance with the advertising facets of this rule may require a minimal expenditure of time and resources.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** As explained in the response to Question 16c above, the license fees are necessary to cover the Division's licensing costs, and any other adverse impact from the remaining rules, if any, is minimal, and is necessary for the Division to carry out its delegated responsibility to license check-cashing businesses under Chp. 1315 of the Revised Code.

### **Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** No. These rules must be applied evenly in order for the Division to effectively license check-cashing businesses, and to protect the interests of their customers.

**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?** The rules do not impose administrative fines or civil penalties for paperwork violations.

**20. What resources are available to assist small businesses with compliance of the regulation?** The Division widely publicizes to stakeholders the fact that its staff is available directly via phone or email to answer any rule-related questions.

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