



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Department of Commerce

Rule Contact Name and Contact Information:

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

Rules related to the Manufactured Homes Program

Rule Number(s): 4781-11-10

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

- | | |
|---|---|
| <input type="checkbox"/> New/ <u>0</u> rules | <input type="checkbox"/> No Change/ <u>1</u> rules (FYR? <u>YES</u>) |
| <input type="checkbox"/> Amended/ <u>0</u> rules (FYR? <u> </u>) | <input type="checkbox"/> Rescinded/ <u>0</u> rules (FYR? <u> </u>) |

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.

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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.

No changes are being proposed for this rule. This rule requires a manufactured housing broker applicant and manufactured broker to purchase and maintain a \$25,000.00 bond.

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.

O.R.C. 4781.04, 4781.25

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. N/A

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- 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)?**

The consumer places trust in the manufactured housing licensee and during the course of transactions, licensees may handle consumers' moneys such as earnest money deposits, escrow funds, rents, and security deposits. The proposed rule is intended to protect the public by ensuring the financial stability of brokers and the ability to recover loss if certain acts are committed by brokers.

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

The success of the rules can be measured by eliciting feedback from the public, stakeholders, and any interested parties regarding the clarity and impact of the rules. The Department will also be able to monitor and identify issues by reviewing reports, monitoring complaints and inquiries made to the Department, and reviewing statistics of negative events occurring in manufactured housing due to the described broker conduct.

- 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.** Ohio Manufactured Homes Association

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

OMHA was contacted via email dated November 12, 2021.

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

OMHA has no objection to the rule's reissuance. The Division of Real Estate and Professional Licensing also routinely receives comments from stakeholders concerning whether rules require amendment.

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11. What scientific data was used to develop the rule or the measurable outcomes of the rule? Not applicable. 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? None. If none, why didn't the Agency consider regulatory alternatives?

It was not necessary for the Division to consider alternative regulations. ORC Section 4781.25 requires the Division of Real Estate & Professional Licensing to adopt rules necessary for the implementation of this section.

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. The rules are regulatory in nature and are required by provisions in ORC Section 4781.25. They are intended to protect consumers.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The Department has exclusive authority to adopt rules for and to regulate manufactured housing installers, inspectors, dealers, salespersons, brokers, and park operators.

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. This is a no change rule. The rules are available on the Legislative Service Commission's website and links to the rules are available on the Department's website. Department staff responsible for collecting proof of this bond requirement are also available for questions.

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; and

All manufactured housing brokers

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

Manufactured housing brokers must obtain and maintain a bond and submit proof of such to the Division.

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

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“representative business.” Please include the source for your information/estimated impact.

There is no change recommended for this rule. Ohio Revised Code Section 4781.25 requires a bond. The \$25,000 will remain unchanged and no additional adverse impact will be made to the licensee.

- 17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** The proposed rule protects the public including purchasers of manufactured homes and taxing authorities and is required by ORC 4781.25.

Regulatory Flexibility

- 18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** There are no exemptions or alternative means of compliance for small businesses. The rules are reviewed with the small business owner in mind.

- 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?**

Often, mistakes on applications and forms filed with the divisions are discovered by division employees and the licensee is notified in order to correct the paperwork and help the licensee come into compliance.

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

The Department is easily accessible by email and telephone for questions from the public. The divisions’ websites contain links to newsletters, links to sample forms, and laws and rules. All the forms are accessible on the website and division staff are available to assist with questions related to the completion of the forms or general inquiries.