

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance

Regulation/Package Title: Mortgage Guaranty Insurance & Ohio mine subsidence insurance underwriting association and fund plan

Rule Number(s): 3901-1-13 and 3901-1-48

Date: July 11, 2016

Rule Type:

<input type="checkbox"/> New	<input checked="" type="checkbox"/> 5-Year Review
<input type="checkbox"/> Amended	<input checked="" type="checkbox"/> No Change
<input type="checkbox"/> Rescinded	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.

3901-1-13 - The purpose of this rule is to implement the section of Ohio Revised Code which pertains to the writing and servicing of mortgage guaranty insurance. The rule outlines procedural and structural guidelines such as: policy forms, coverage limitations, advertising, and reserving requirements. There are no proposed amendments.

3901-1-48- This rule implements the plan of operation of the “Ohio Mine Subsidence Insurance Underwriting Association,” (OMSIUA), pursuant to Ohio Revised Code. There are no proposed amendments.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

3901-1-13 - Section 3901.041 of the Revised Code.

3901-1-48 - Section 3901.041 of the Revised Code.

3. 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.

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)?

3901-1-13 - Mortgage Guaranty insurance reduces risk to mortgage lenders and provides opportunities for home purchasers who may not otherwise qualify under traditional lending criteria. This rule establishes the regulatory framework for this type of coverage.

3901-1-48 - Mine subsidence occurs when the foundation of a structure is compromised due to lateral or vertical ground movement caused by a failure in an abandoned mine. Homes located in areas of Ohio with a presence of abandoned mines are at risk for mine subsidence. Mine subsidence coverage is endorsed to a basic property or homeowners policy. Coverage is mandatory in counties with a high concentration of abandoned mines, and optional in counties where a small concentration of abandoned mines are present. Insurers who write basic property or homeowners policies in the eligible counties are required to become members of the OMSIUA and offer this coverage to all eligible applicants. This rule specifies how OMSIUA will operate.

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

Both rules included in this packet have remained in effect for years and have no proposed amendments. The success of the rules is evident in the continuing market and consumer protections in the coverage they establish.

Development of the Regulation

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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.*

3901-1-48 - On March 22nd ODI contacted the OMSIUA board and individuals who regularly attend board meetings via email. The board was informed of the five year review process for this rule and was provided opportunity to comment. No comments were received.

Interested stakeholders for both rules include the Ohio Insurance Institute (OII), Ohio Insurance Agents Association (OIA), National Association of Public Insurance Adjusters (NAPIA), American Association of Public Insurance Adjusters (AAPIA), the OMSIUA board, and domestic property & casualty insurers.

The department posted both of these rules on its website for public review and made trade associations representing insurance companies aware the rules were due for five year review. In addition, in May 2016, an email requesting comment on the rules was sent to various stakeholders, interested parties, and trade associations who signed up for updates on the department's rules and bulletins.

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

No comments were received during the vetting process.

9. 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?

Rule 3901-1-13 was drafted pursuant to the National Association of Insurance Commissioners model rule. This model was established after extensive research of trends and market conditions.

Rule 3901-1-48 was established to govern the OMSIUA in order to guarantee eligible Ohioans would be provided an opportunity for mine subsidence coverage. Research determined the specific areas of Ohio that are at risk for mine subsidence activity.

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 purpose of these rules is to establish the function and governing of the OMSIUA board, and to establish the regulatory framework of mortgage guaranty insurance, alternatives are not appropriate.

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.

No. Performance-based rules would not apply as the purpose and scope of these rules are to establish the function of the OMSIUA board, and to establish the regulatory framework of mortgage guaranty insurance.

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

The Ohio department of insurance is the sole agency regulating insurance and there are no duplicative rules.

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.

Both rules included in this packet have remained in effect for many years and are understood by the regulated community.

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

3901-1-13 - Mortgage guaranty insurers are impacted by the requirements of this rule. Compliance requirements include maintaining minimum reserves. Additionally, companies are required to notify the department when five per cent or more of their net annual premium is received from policies having a loan to value ratio of greater than ninety-five per cent. If a mortgage guaranty insurance company receives more than twenty per cent of their net annual premium from policies written by affiliates, they are required to notify the superintendent. Generally this data is readily available based on the internal underwriting and accounting practices of the companies.

3901-1-48 - Insurers who write basic property or homeowners policies for family dwellings in the defined eligible counties are required to become members of the OMSIUA and offer mine subsidence coverage to all eligible applicants. Member insurers are required to submit quarterly reports and maintain certain agreements with the OMSIUA. Completing these requirements would take no longer than a few hours a year.

These requirements are well understood by member companies of the association, and the department is not recommending changes to this rule.

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

The guidelines established in both rules assist in maintaining a stable and competitive industry. Both rules collectively provide important consumer protections.

Regulatory Flexibility

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

The requirements for rule 3901-1-13 apply equally to any company engaged in the sale of mortgage guaranty products in order to ensure a balanced market. Rule 3901-1-48 applies equally to insurers who met the requirements of OMSIUA.

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?

Paperwork violations and/or first time offender issues would be dealt with on a case-by-case basis to determine whether the violation could have a serious impact on the consumer or the general public. Minor errors would be handled by advising the company and giving them an opportunity to cure the omission or irregularity.

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

Department staff is available to answer questions and provide assistance as needed.