

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Division of Real Estate & Professional Licensing

Regulation/Package Title: 1301:11 / Rules Affecting Ohio Real Estate Appraiser Applicants

Rule Number(s): 1301:11-1-01; 1301:11-1-02; 1301:11-1-08; 1301:11-1-09;  
1301:11-1-10; 1301:11-3-01; 1301:11-3-03; 1301:11-3-04; 1301:11-3-08; 1301:11-4-02;  
1301:11-7-01; 1301:11-7-02; 1301:11-7-03; & 1301:11-7-04

Date: \_\_\_\_\_

**Rule Type:**

New

5-Year Review

Amended

Rescinded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.*

**1301:11-1-01** The purpose of this rule is to provide the procedure in giving public notice, as required by law, of the intention to consider adopting, amending or rescinding a rule or regulation. **No changes were proposed at this time.**

**1301:11-1-02** The purpose of this rule is to set forth the procedure for providing public notice of an Ohio Real Estate Appraiser Board (“Board”) meeting. The proposed amendment was made to reflect the current email address for the Ohio Division of Real Estate & Professional Licensing (“Division”).

**1301:11-1-08** The purpose of this rule is to establish the procedure for an out of state licensed or certified appraiser to obtain an Ohio residential real estate appraiser license or certification. Ohio Revised Code Section 4763.05(E) requires the Board to adopt rules pertaining to individuals who maintain appraiser credentials issued by other states. The Board must also adopt rules that follow federal appraiser requirements. Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 established the Appraiser Qualifications Board (“AQB”). The AQB establishes the minimum requirements for certified real property appraisers. Pursuant to provisions of the Dodd-Frank Reform Act, the AQB establishes the minimum requirements for “Licensed Appraisers” and “Trainee Appraisers” which would include registered Ohio real estate appraiser assistants. The proposed amendments were made to reflect current AQB requirements and to comply with the requirements found in Ohio Revised Code Section 4763.05(H). The proposed amendments were also made to correct grammatical mistakes and clarify existing requirements.

**1301:11-1-09** The purpose of this rule is to establish the Division shall provide a record of hearings conducted within the Division’s regulating authority, and establish the procedure in which the record is produced and made available to interested parties. **No changes are proposed at this time.**

**1301:11-1-10** The purpose of this rule is to establish the requirements for settlement agreements entered into by the Superintendent and an Ohio appraiser licensee, certificate holder or registrant who has been charged with violating license law. The proposed amendments were made to correct grammatical mistakes and clarify existing requirements.

**1301:11-3-01** The purpose of this rule is to define the term, “Nationally recognized appraisal organization” that is used within Ohio Administrative Code 1301:11-3-03. **No changes were proposed at this time.**

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**1301:11-3-03** The purpose of this rule is to describe the education requirements for applicants who want to obtain an Ohio real estate appraiser license or certificate. The proposed amendments are consistent with AQB requirements and clarify existing requirements.

**1301:11-3-04** The purpose of this rule is to establish the experience requirements for applicants who want to obtain an Ohio real estate appraiser license or certificate. The proposed amendments are consistent with AQB requirements and clarify existing requirements.

**1301:11-3-08** The purpose of this rule is to establish the process for an appraiser applicant to complete a criminal background check as required by Ohio Revised Code Section 4763.05. **No changes were proposed at this time.**

**1301:11-4-02** The purpose of this rule is to establish the education requirements for applicants who want to obtain an Ohio real estate appraiser assistant registration. This rule is required by the AQB and Ohio Revised Code Section 4763.05(C). The proposed amendment clarifies existing requirements.

**1301:11-7-01** The purpose of this rule is to establish the continuing education requirements for registered, licensed or certified Ohio real estate appraisers. **No changes were proposed at this time.**

**1301:11-7-02** The purpose of this rule is to establish the requirements education providers must satisfy in order to receive Division approval to offer a continuing education class for Ohio real estate appraisers. The proposed amendments were made to correct grammatical mistakes and clarify existing requirements. The proposed amendments are also consistent with AQB requirements.

**1301:11-7-03** The purpose of this rule is to establish the requirements for a course provider seeking approval for a continuing education class offered in a distance education setting. The proposed amendments were made to correct grammatical mistakes.

**1301:11-7-04** The purpose of this rule is to establish when a medical exception to the annual appraiser renewal requirements may be applicable. The rule also establishes the procedure for an applicant to follow when applying for a medical exception. **No changes were proposed at this time.**

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

1301:11-1-01 is authorized by ORC 4763.03.

1301:11-1-02 is authorized by ORC 4763.03.

1301:11-1-08 is authorized by ORC 4763.03 & 4763.05.

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1301:11-1-09 is authorized by ORC 119.03 & 4763.03.

1301:11-1-10 is authorized by ORC 4763.03.

1301:11-3-01 is authorized by ORC 4763.03.

1301:11-3-03 is authorized by ORC 4763.03 & 4763.05.

1301:11-3-04 is authorized by ORC 4763.03 & 4763.05.

1301:11-3-08 is authorized by ORC 4763.03 & 4763.05.

1301:11-4-02 is authorized by ORC 4763.03 & 4763.05.

1301:11-7-01 is authorized by ORC 4763.03 & 4763.07.

1301:11-7-02 is authorized by ORC 4763.03, 4763.07 & 4763.09.

1301:11-7-03 is authorized by ORC 4763.03, 4763.07 & 4763.09.

1301:11-7-04 is authorized by ORC 4763.03, 4763.06 & 4763.07.

- 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.*

Yes. Under the provisions of Title XI of the Financial Institutions, Reform, Recovery and Enforcement Act of 1989 (Title XI), the AQB establishes the minimum requirements for certified real property appraisers. Pursuant to the provisions of the Dodd-Frank Reform Act, the AQB establishes the minimum requirements for “Licensed Appraisers” and “Trainee Appraisers”. States are required to implement appraiser requirements that are consistent with those requirements issued by the AQB. The applicable Ohio rules are consistent with the current AQB requirements. States that do not comply with Title XI are subject to the non-recognition of their real estate appraiser licenses and certifications. If this were to occur in Ohio, it would severely limit the mortgage-lending industry in Ohio and harm consumers.

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

The rules do not exceed the AQB requirements.

- 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)?**

The rules are necessary to ensure that Ohio appraisers are well-qualified, competent and properly trained. It is necessary for the stability of our economy for appraisers to have the required skills and knowledge in real property appraising.

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

Division staff interacts with every appraiser applicant and Division staff reviews every appraiser application for compliance. Division staff also receives comments from the public at outreach functions and through public inquiries filed with the Division.

**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.*

The Division receives comments from the public, appraisers and education providers concerning rules and whether they require modification. In February of 2016, the Division contacted representatives from education providers, Hondros College and the Ohio Association of Realtors, through email. The Division also contacted appraisers through the Ohio Coalition of Appraisal Professionals and the local chapter of the Appraisal Institute by email. The purpose of the communications was to obtain their comments about the proposed changes to the rules and how they will affect the business community. The Division received no comments from them. In February of 2016, the Division also consulted with the Ohio Real Estate Appraiser Board regarding the rules. Four of the five current board members are Ohio real estate appraiser credential holders.

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

The states must follow AQB requirements. Stakeholders acknowledged and endorsed the rules.

**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?**

N/A. The rules are based on Ohio law and AQB requirements. AQB requirements are binding on the state.

**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 rules are being offered to satisfy the AQB requirements and Ohio law. The intention of the rules is to ensure appraisers and appraiser applicants are qualified and competent to complete real estate appraisals. This is necessary for the stability of our economy.

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**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.*

It was not necessary for the Division to consider performance based regulations for these rules. The existing rules are offered to satisfy Ohio law and AQB requirements.

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

The Division is the only agency in this state that regulates Ohio registered, licensed and certified real estate appraisers.

**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 Division publishes a newsletter for appraisers. The Division will include an article in the newsletter explaining the changes. The Division will also publish the changes on its website. Division staff responsible for enforcement will receive training on the changes.

**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;**

The stakeholders affected by these proposed changes are identified below:

**1301:11-1-01** Any person interested when the Board reviews a rule.

**1301:11-1-02** Any person interested about a Board meeting.

**1301:11-1-08** Any out of state licensed or certified appraiser.

**1301:11-1-09** Any person interested in an adjudication hearing held before the Division or the Board.

**1301:11-1-10** Any Ohio appraiser notified by the Superintendent with a notice of opportunity for hearing concerning a violation of Ohio Revised Code Section 4763.11.

**1301:11-3-01** Any education provider or any person applying for or considering a new Ohio appraiser registration, license or certificate.

**1301:11-3-03** Any person applying for or considering a new Ohio appraiser license or certificate.

**1301:11-3-04** Any person applying for or considering a new Ohio appraiser license or certificate or a supervisory appraiser.

**1301:11-3-08** Any person applying for or considering a new Ohio appraiser registration, license or certificate.

**1301:11-4-02** Any applicant applying for or considering a new Ohio registered real estate appraiser assistant registration.

**1301:11-7-01** Any Ohio licensed, registered or certified appraiser

**1301:11-7-02** Any education provider or any Ohio licensed, registered or certified appraiser

**1301:11-7-03** Any education provider or any Ohio licensed, registered or certified appraiser

**1301:11-7-04** Any Ohio licensed, registered or certified appraiser

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

There is no new or additional adverse impact from the proposed rule changes. The nature of the adverse impact for each existing rule is identified below:

**1301:11-1-01** A stakeholder will have no adverse impact from this rule.

**1301:11-1-02** A stakeholder will have no adverse impact from this rule.

**1301:11-1-08** An appraiser applicant will be required to spend time and money to complete the application process.

**1301:11-1-09** A stakeholder will have no adverse impact from this rule unless they voluntarily use a stenographic service other than the one provided by the Division.

**1301:11-1-10** A stakeholder will have no adverse impact from this rule.

**1301:11-3-01** A stakeholder will have no adverse impact from this rule.

**1301:11-3-03** An appraiser applicant will be required to spend time and money to meet the education requirements as required by the AQB.

**1301:11-3-04** An appraiser applicant will be required to spend time to meet the experience requirements as required by the AQB.

**1301:11-3-08** An appraiser applicant will be required to spend time and money to complete the criminal background check as required by the Ohio Revised Code Section 4763.05.

**1301:11-4-02** An appraiser applicant (registrant) will be required to spend time and money to meet the education requirements as required by the AQB.

**1301:11-7-01** An appraiser applicant will be required to spend time and money to meet the continuing education requirements as required by the AQB.

**1301:11-7-02** An education provider seeking to provide continuing education classes to appraisers in a tradition classroom setting will be required to spend time and money to complete the application process.

**1301:11-7-03** An education provider seeking to provide continuing education classes to appraisers in a distance education setting will be required to spend time and money to complete the application process.

**1301:11-7-04** An appraiser applicant will be required to spend time completing the application process.

**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 fourteen rules are currently subject to five year rule review. The proposed changes are to correct grammatical mistakes and clarify existing requirements. There is no new or additional adverse impact from the proposed changes. The specific, expected adverse impact for each existing rule is identified below:

**1301:11-1-01** A stakeholder will have no adverse impact from this rule.

**1301:11-1-02** A stakeholder will have no adverse impact from this rule.

**1301:11-1-08** An applicant will have to pay a \$265.00 application fee, consisting of a \$175.00 application fee, a \$40.00 federal pass through fee and a \$50.00 recovery fund fee. An applicant will have to spend time completing the application. The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour to complete the application.

**1301:11-1-09** A stakeholder will have no adverse impact from this rule unless a stakeholder voluntarily chooses to employ their own stenographic service rather than use the stenographic service provided by the Division. An estimated hourly rate for a stenographic service is \$55.00 per hour.

**1301:11-1-10** A stakeholder will have no adverse impact from this rule.

**1301:11-3-01** A stakeholder will have no adverse impact from this rule.

**1301:11-3-03** As a result of AQB requirements, there is a bachelor’s degree requirement for certified appraisers, and licensed appraisers must have an associate degree or at least 30 semester hours of college level education. Applicants must also complete additional appraisal specific classes, which cost between \$200 and \$400 per class. Applicants for a real estate appraiser license must complete at least 150 hours. Applicants for a residential real estate appraiser certificate must complete at least 200 hours and applicants for a general real estate appraiser certificate must complete at least 300 hours.

**1301:11-3-04** As a result of AQB requirements, applicants seeking a residential appraiser license or certificate must serve at least two years under the supervision of a

certified appraiser. Applicants seeking a general appraiser certificate must serve at least thirty months under the supervision of a certified appraiser.

**1301:11-3-08** The Division estimates it would take less than an hour for the applicant to complete the fingerprint process for the criminal records check. The Division estimates the fingerprint process costs between \$50 and \$75 for state and national criminal background checks.

**1301:11-4-02** As a result of AQB requirements, applicants must complete at least 75 hours of education in appraisal specific classes, which cost between \$200 and \$400 per class.

**1301:11-7-01** As a result of AQB requirements, licensed, certified and registered appraisers must complete annually at least 14 hours of continuing education classes. The Division estimates classes cost between \$100 and \$300 per class.

**1301:11-7-02** The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour for the applicant to complete the application. The application fee is \$50.00 for a continuing education class offered in a classroom setting.

**1301:11-7-03** The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take between 1 and 2 hours for the applicant to complete the application. The application fee is \$200.00 for a continuing education class offered in a distance education setting.

**1301:11-7-04** The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour for the applicant to complete the application.

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

The overall intent of these rules is to ensure appraisers are competent to complete real estate appraisals. This serves to benefit all of those who come to rely on appraisals. The rules are also based on federal requirements, which are currently binding on the state. States that do not comply with federal requirements would be subject to the non-recognition of real estate appraiser licenses and certifications in this state. Therefore, an appraisal done by Ohio

licensed or certified appraisers would not be considered valid. If this were to occur in Ohio, it would severely limit the mortgage-lending industry in Ohio and harm consumers.

### **Regulatory Flexibility**

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

The Division recognizes that most appraisers are small businesses. Most of the rules are federally required and all of the rules are designed with the small business owner in mind.

**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?**

Division staff regularly works with applicants to ensure they have all the necessary paperwork for their application. If an applicant omits any required documentation, Division staff notifies the applicant of the deficiency; discusses with the applicant his or her options for compliance; and the Division allows the application to remain in a pending status for a reasonable time to avoid forfeiture of any application fee.

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

The Division recognizes that many appraisers are small businesses and the Division is easily accessible by email and telephone for inquiries. Further, the Division's website has valuable information including forms, helpful facts and answers, newsletters and links to additional outside resources.