



# Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Division of Real Estate & Professional Licensing

Rule Contact Name and Contact Information:

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

Rules Regarding Ohio Real Estate Appraisers

Rule Number(s): 1301:11-7-04

Date of Submission for CSI Review: 10/12/2021

Public Comment Period End Date: 10/27/2021

Rule Type/Number of Rules:

New/\_0\_ rules

No Change/\_0\_ rules (FYR? \_\_\_)

Amended/\_1\_ rules (FYR? \_Yes\_)

Rescinded/\_0\_ rules (FYR?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.

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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.*

**1301:11-7-04 – Proposed change** – This rule establishes 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. The proposed revisions will provide more options to applicants as the proposed revisions specifically recognize statements from advanced practice registered nurses and doctoral credentialed clinical psychologists as a basis for a medical exception request to the renewal of an Ohio appraiser registration, license or certificate.

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.

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

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- 4. Does the regulation implement a federal requirement? Yes. 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**  
*If yes, please briefly explain the source and substance of the federal requirement.*

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”) established the Appraiser Qualifications Board (“AQB”). The AQB establishes the minimum requirements for certified real property appraisers. Also under the provisions of the Dodd-Frank Reform Act, the AQB establishes the minimum requirements for “Licensed Appraisers”. These laws require states to implement appraiser requirements that are no less stringent than those issued by AQB. 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. 1301:11-7-04 is consistent with AQB requirements.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement. No.**

- 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 rule is 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.

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

Division staff will interact with every applicant and Division staff will review every application for compliance. Division staff also receives comments from the public at outreach functions and through public inquiries filed 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**

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**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.*

The Division receives comments from the public, appraisers and education providers concerning rules and whether they require modification. In February of 2021, the Division consulted with the Ohio Real Estate Appraiser Board regarding this rule. The rule was subject to five year rule review, and no change was proposed. The Board adopted the no change recommendation. The Division proceeded through CSI review and the JCARR process. On July 7, 2021, while the rule was in JCARR review, Kelly Shank, President of the Ohio Association of Advanced Practice Nurses provided the Division proposed terminology changes for the rule. The Division acknowledged receipt of her comments and withdrew the proposed no change recommendation for the rule. The rule and the proposed changes to the rule from Ms. Shank were provided to the Ohio Real Estate Appraiser Board for their consideration on August 12, 2021. The Board considered Ms. Shank's suggestions and modified the rule accordingly.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?** The Division only received comments about this specific rule from the Ohio Association of Advanced Practice Nurses and the comments resulted subsequent modification of the rule by the Ohio Real Estate Appraiser Board.

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

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

**13. Did the Agency specifically consider a performance-based regulation? Please explain.**

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*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 the rule. The existing rule is offered to satisfy Ohio law and AQB requirements.

**14. 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.

**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.** The Division publishes a newsletter. The Division will include an article in the newsletter explaining the proposed rules. The Division will also publish the rules on its website. The Division will directly communicate with stakeholders informing them of the implementation of the proposed rules. Lastly, Division staff responsible for enforcement of these proposed rules will receive training.

**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**

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

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

**1301:11-7-04** - There is no new or additional adverse impact. There are no monetary costs of compliance imposed by the Division upon any person directly affected by this rule. An interested person would need to submit a written request or statement to the Division requesting the medical exception.

**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.*

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**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 to submit a written request for a medical exception.

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

The overall intent of the rule 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 rule is 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**

**18. 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. The rule is designed with the small business owner in mind while maintaining compliance with AQB requirements.

**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?**

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.

**20. 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.