



NOTICE OF PUBLIC HEARING

Pursuant to Ohio Revised Code § 119.03, notice is hereby given that the Ohio Department of Commerce, Ohio Construction Industry Licensing Board (OCILB) intends to amend Ohio Administrative Code § 4101:16-3-02. **OCILB will conduct a public hearing on the proposed rule on Wednesday, November 4, 2009 at 1:00 p.m. at the offices of the Division of Industrial Compliance, Training Room 3, 6606 Tussing Road, Reynoldsburg, Ohio 43068-9009.**

The proposed rule is available by contacting the Ohio Division of Industrial Compliance at 6606 Tussing Road, Reynoldsburg, Ohio 43068-9009 or by calling OCILB at (614) 644-3493. The proposed rule is also available at the following websites: <http://www.com.state.oh.us/dico/OCILB.aspx> or www.registerofohio.state.oh.us.

The proposed rule is summarized as follows:

- **OAC 4101:16-3-02 – Qualifications to take licensing examination (Amend)**

This rule details the criteria necessary to qualify to take a licensing examination.

The purpose for this proposed amendment is to clarify the types of "other acceptable experience".

REGARDING THE PUBLIC HEARING

At the public hearing, any person affected by the proposed actions may appear and be heard in person, by the person's attorney, or both, may present the person's position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the proposed rule or amendments, if adopted or effectuated, will be unreasonable or unlawful.

The Ohio Department of Commerce is an equal opportunity service provider.

For special accommodations, please contact the ADA coordinator at (614) 728-4292 at least one (1) week prior to the hearing.

For the hearing impaired – TTY/TDD – (800) 750-0750

4101:16-3-02 **Qualifications to take licensing examination.**

In order to qualify to take an examination for a license issued by the appropriate specialty section, an individual must meet all of the following requirements:

- (A) Make application with the appropriate specialty section pursuant to rule 4101:16-3-03 of the Administrative Code;
- (B) Be at least eighteen years of age;
- (C) Be a citizen of the United States of America or provide documentation to demonstrate that the individual is a legal resident alien of the United States;
- (D) Not have been convicted of or pleaded guilty to a misdemeanor involving moral turpitude or of any felony;
- (E) Not violated any provisions of Chapter 4740. of the Revised Code, or any rule adopted pursuant to that chapter;
- (F) Not obtained or renewed a license issued pursuant to Chapter 4740. of the Revised Code by fraud, misrepresentation, or deception;
- (G) Not engaged in fraud, misrepresentation, or deception in the conduct of business; and
- (H) Have been either:
 - (1) A tradesperson with at least five years of experience in the trade applying for immediately prior to the date the application is filed. Credit may be given for time in active military service to meet this requirement. Pursuant to rule 4101:16-3-02 of the Administrative Code, the tradesperson shall provide the appropriate specialty section with documentation demonstrating that the individual has spent a majority of the required employment period as a tradesperson;
 - (2) A currently registered engineer in the state of Ohio with three years of business experience in the construction industry trade for which they are applying to take the examination;
 - (3) Have other experience acceptable to the section of the board that authorizes issuance of the type of license sought. ~~Such acceptable experience shall include, but is not limited to:~~

(a) ~~At least five years of experience in the trade for which the individual is applying, if such experience is not during the five years preceding the application; Such acceptable experience shall include:~~

(i) Five years of experience in the licensed trade for which the individual is applying, if such experience is not during the five years preceding the application. The experience may be on projects both commercial and residential in nature.

(a) Three years of the five years of experience must be obtained by performing construction work on commercial or residential projects in the licensed trade for which the individual is applying;

(b) Education programs, other than an apprentice program approved by the state of Ohio, may be submitted in lieu of work experience by the applicant up to a maximum of one year of the five years of experience necessary;

(c) An engineer not currently registered in the state of Ohio must have at least five years of business experience in the construction industry in the licensed trade for which application is made;

(d) Experience doing maintenance or repair work to be considered as applicable to the five years experience must be maintenance and repair work done on construction projects in the licensed trade for which the individual is applying and subject to the rules promulgated by the Ohio board of building standards pursuant to Chapter 3781, of the Revised Code; all other maintenance and repair experience on projects or structures not subject to the rules of the Ohio board of building standards promulgated pursuant to Chapter 3781, of the Revised Code shall not be considered applicable experience.

(e) The individual shall provide documentation such as local licenses or registrations, permits obtained, pay stubs, W-2's, signed contracts, invoices, or verification of employment on company letterhead demonstrating that the applicant has spent a majority of his time during the five year experience period in the licensed trade for which the individual is applying; or

(ii) Five years experience as an Ohio government inspector in the trade

for which the individual is applying.

- (b) ~~Ownership of a currently or previously licensed business in the construction industry; or~~ Such acceptable experience shall not include:
- (i) Job experience in the construction industry as an inventory worker, counter salesperson, manufacturer representative, purchasing agent, secretary, clerk, or bookkeeper.
 - (ii) General contractor experience that is not directly related to the trade for which the individual is applying.
- (e) ~~Licensure in another state if that state does not have a reciprocity agreement with Ohio.~~

Effective:

R.C. 119.032 review dates: 04/01/2010

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 4740.05
Rule Amplifies: 4740.05, 4740.06
Prior Effective Dates: 8/1/93, 9/4/98, 3/24/03, 2/9/04, 4/1/05

Rule Summary and Fiscal Analysis (Part A)**Department of Commerce**

Agency Name

Ohio Construction Industry Licensing Board Jaymi R. Reynolds

Division

Contact

6606 Tussing Road P.O. Box 4009 Reynoldsburg OH 614-752-7124
43068-9009

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4101:16-3-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Qualifications to take licensing examination.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **4740.05**

5. Statute(s) the rule, as filed, amplifies or implements: **4740.05, 4740.06**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To clarify the qualifications to take the licensing exam.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

Specifically, the changes being made would clarify the types of "other acceptable experience" which would qualify the applicant to sit for the licensing exam.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: 4/1/2010

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase /**

decrease either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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This would neither increase nor decrease revenue and/or expenditures.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

N/A

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

N/A

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**