

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): 1301:11-3-03 & 1301:11-3-04

Date: _____

Rule Type:

New

Amended

5-Year Review

Rescinded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.

1301:11-3-03 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

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CSIOhio@governor.ohio.gov

for “Licensed Appraisers”. These laws require states to implement appraiser requirements related to education and experience that are no less stringent than those issued by AQB.

The intent of this regulation is to ensure appraiser applicants are sufficiently educated and competent to complete real estate appraisals. The proposed amendments include alternative college-level education requirements for certified residential appraiser applicants; an alternative track for licensed residential appraiser applicants to upgrade to a residential appraiser certificate; and the elimination of college-level education for licensed residential appraiser applicants. The proposed amendments are being made in order to make the rule consistent with the AQB’s requirements.

1301:11-3-04 The intent of this regulation is to ensure appraiser applicants are adequately trained and competent to complete real estate appraisals. The proposed amendments include modification of experience hours and timeframes for licensed residential and certified residential appraiser applicants. The proposed amendments are being made in order to make the rule consistent with the AQB’s requirements.

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

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

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

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 related to education and experience 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)?

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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.

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 March of 2018, 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 comments from the Appraisal Institute. In May of 2018, 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. Stakeholders from the Appraisal Institute informed the Division of a grammatical mistake in the proposed rule which was corrected.

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.

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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.

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:

1301:11-3-03: Any applicant for a new residential appraiser license or certificate

1301:11-3-04: Any applicant for a new appraiser license or certificate

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 proposed amendments will reduce any existing adverse impact as the AQB has lessened some of the education and experience requirements for licensed and certified appraisers. Just like the existing rules, appraiser applicants will be required to spend time and money to meet the proposed amendments to the education and experience requirements.

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.

1301:11-3-03 The proposed amendments include alternative college-level education requirements for certified residential appraiser applicants; an alternative education track for licensed residential appraiser applicants to upgrade to a residential appraiser certificate; and the elimination of college-level education for licensed residential appraiser applicants.

1301:11-3-04 The proposed amendments include a reduction of experience hours and timeframes for licensed residential (from 2,000 hours in 24 months to 1,000 hours in 6 months) and certified residential appraiser applicants (from 2,500 hours in 24 months to 1,500 hours in 12 months) and a reduction of timeframes for certified general appraiser applicants (30 months to 18 months). The proposed amendments are being made in order to make the rule consistent with the AQB’s requirements.

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. The rules are federally required and 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.