

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Division of Real Estate & Professional Licensing

Regulation/Package Title: 1301:16 – Rules Affecting Ohio Appraisal Management Companies

Rule Number(s): 1301:16-1-01, 1301:16-1-02, 1301:16-1-03, 1301:16-1-04, 1301:16-1-05, 1301:16-1-06, 1301:16-1-07, 1301:16-1-08, 1301:16-1-09 & 1301:16-1-10

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Rescinded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.

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1301:16-1-01 - The intent of this regulation is to provide the procedure in giving public notice, as required by law, of the intention to consider adopting, amending or rescinding a rule.

1301:16-1-02 – The intent of this regulation is to set forth the procedure for providing public notice to a Board meeting.

1301:16-1-03 – The intent of this regulation is to establish the process of completing a criminal background check for each owner and controlling person of an applicant for Ohio appraisal management company license as required by Ohio Revised Code Section 4768.06.

1301:16-1-04 – The purpose of this regulation is to comply with the rule-making requirements found in Ohio Revised Code Section 4768.03(A)(2). The rule establishes the fees associated with an Ohio appraisal management license.

1301:16-1-05 – The intent of this regulation is to establish the Division shall provide a record of the hearings conducted within the Division’s regulating authority, and the procedure in which the record is produced and made available to interested parties.

1301:16-1-06 – The intent of this regulation is to establish the form and manner by which applicants for an Ohio appraisal management company may apply for a license.

1301:16-1-07 - The intent of this regulation is to establish Ohio appraisal management company licensees shall comply with a subpoena issued by the Superintendent of the Division of Real Estate & Professional Licensing and a failure to comply with such a subpoena shall be considered a violation of license law.

1301:16-1-08 – The intent of this regulation is to establish the requirements for settlement agreements entered into by the Superintendent and an Ohio appraisal management company licensee that has been charged with violating license law.

1301:16-1-09 - The intent of this regulation is to establish the procedure associated with an informal mediation affecting Ohio appraisal management company licensees.

1301:16-1-10 - The purpose of this regulation is to comply with the rule-making requirements found in Ohio Revised Code Section 4768.03(A)(4).

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

1301:16-1-01, 1301:16-1-02, 1301:16-1-03, 1301:16-1-04, 1301:16-1-05, 1301:6-1-06, 1301:16-1-07, 1301:16-1-08, 1301:16-1-09 & 1301:16-1-10 are authorized by Ohio Revised Code Section 4768.03.

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. The Dodd-Frank Reform Act of 2010 required states to enact oversight and regulatory programs for appraisal management companies (AMC). In 2015, six federal financial regulatory agencies issued rules supplementing the federal law and establishing the minimum requirements for AMC's. States may choose not to have an oversight and regulatory program, but if they do, non-federal appraisal management companies will be barred in those states from providing appraisal management services for federally related transactions. 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 federal 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 appraisal management companies are well-qualified and competent. It is necessary for the stability of our economy and the mortgage lending industry.

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

Division staff interacts with every applicant and Division staff reviews every 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, industry participants and education providers concerning rules and whether they require implementation or modification. In May of 2018, the Division contacted representatives from education providers, Hondros College and the Ohio 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 Division also contacted the Mortgage Bankers Association, the Ohio Division of Financial Institutions, the Real Estate Valuation Advocacy Association and the Appraisal Subcommittee by email. The purpose of these communications was to obtain their comments about the proposed rules and how they will affect the business community. 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 enact a regulatory and oversight program for appraisal management companies in order for non-federal appraisal management companies to provide in Ohio appraisal management services for federally related transactions. Stakeholders acknowledged the federal requirements and have endorsed the rules for the program.

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 federal requirements and Ohio law.

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 federal requirements and Ohio law. The intention of the rules is to ensure appraisal management companies are qualified and competent. 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 federal 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 appraisal management companies.

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. The Division will include an article in the newsletter explaining the rules. The Division will also publish the rules on its website. Division staff responsible for enforcement will receive training.

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:

1301:16-1-01 Any person interested when the Board reviews a rule

1301:16-1-02: Any person interested about a Board meeting

1301:16-1-03: Any applicant for an Ohio appraisal management company license

1301:16-1-04: Any applicant for an Ohio appraisal management company license

1301:16-1-05: Any person interested in an adjudication hearing held before the Division or the Board.

1301:16-1-06: Any applicant for an Ohio appraisal management company license

1301:16-1-07: Any Ohio appraisal management company licensee

1301:16-1-08: Any Ohio appraisal management company licensee subject to a Division charge alleging a violation of Ohio Code Section 4768.13

1301:16-1-09: Any Ohio appraisal management company licensee who is the subject of a complaint

1301:16-1-10: Any Ohio appraisal management company licensee

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

1301:16-1-01: A stakeholder will have no adverse impact from the proposed rule.

1301:16-1-02: A stakeholder will typically have no adverse impact from the proposed rule but a stakeholder could potentially be assessed a fee.

1301:16-1-03: An applicant will be required to spend time and money to complete a criminal background check as required by Ohio Revised Code Section 4768.06.

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1301:16-1-04: A stakeholder will have to pay the corresponding license application fees as found in the proposed rule.

1301:16-1-05: A stakeholder will have no adverse impact from the proposed rule unless they voluntarily use a stenographic service other than the one provided by the Division.

1301:16-1-06: An applicant will be required to spend time and money to complete a license application.

1301:16-1-07: An appraisal management company licensee will be required to comply with a subpoena issued by the Board or the Superintendent pursuant to Ohio Revised Code Section 4768.05. A licensee will have to spend time responding to the subpoena.

1301:16-1-08: A stakeholder will have no adverse impact from the proposed rule.

1301:16-1-09: A stakeholder will have no adverse impact from the proposed rule.

1301:16-1-10: A licensee will be required to pay money to appraisers for appraisal services rendered as required by the proposed rule.

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.

1301:16-1-01: The proposed rule provides procedure for the Division and does not provide adverse impact on a stakeholder.

1301:16-1-02: A person requesting notice records from the Division could be assessed a fee in conformity with Ohio Revised Code Section 149.43.

1301:16-1-03: The Division estimates it would take less than an hour for an applicant to complete the fingerprint process for a criminal records check. The Division estimates the fingerprint process costs between \$50 and \$75.

1301:16-1-04: A stakeholder will have to pay the fees as required in the proposed rule and as authorized by Ohio Revised Code Section 4768.03.

1301:16-1-05: A stakeholder will have no adverse impact from the proposed rule unless they voluntarily use a stenographic service other than the one provided by the Division. The estimated hourly rate for a stenographic service is approximately \$55.00 per hour.

1301:16-1-06: An applicant will be required to spend time to complete a license application and submit it to the Division for its review. The amount of time spent on completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour to complete the application. An applicant will have to pay the corresponding application fee as required in proposed rule 1301:16-1-04.

1301:16-1-07: A licensee will be required to comply with a subpoena issued pursuant to Ohio Revised Code Section 4768.05. A licensee will have to spend some time responding to the subpoena. The amount of time spent will vary from a few minutes to several hours. The amount of time spent responding to the subpoena will be dependent upon the scope of the investigation and the amount of information requested.

1301:16-1-08: The proposed rule provides procedure for the Division and does not provide adverse impact on a stakeholder.

1301:16-1-09: The proposed rule provides procedure for the Division and does not provide adverse impact on a stakeholder.

1301:16-1-10: A licensee will be required to compensate appraisers for appraisal services in compliance with federal law and regulations.

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

The rules are being offered to satisfy the federal requirements and Ohio law. The intention of the rules is to ensure appraisal management companies are qualified and competent. States failing to have an oversight and regulatory program for appraisal management companies will cause non-federal appraisal management companies to be barred from providing appraisal management services for federally related transactions. 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 Ohio appraisal management companies can be small businesses. The rules are the result of federal requirements and of subsequent Ohio law. 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 applicants can be 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.