



## Common Sense Initiative

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

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### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Architects Board

Rule Contact Name and Contact Information:

Shannon Himes, Executive Director

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

Architecture Regulation

Rule Number(s): 4703-1-01, 4703-1-02, 4703-1-03, 4703-1-04, 4703-2-01, 4703-2-03, 4703-2-04, 4703-2-05, 4703-2-06, 4703-2-07, 4703-2-08, 4703-3-01, 4703-3-02, 4703-3-03, 4703-3-04, 4703-3-05, 4703-3-06, 4703-3-08, 4703-3-09, 4703-3-10, 4703-3-12, 4703-3-13

Date of Submission for CSI Review: 6/3/2020

Public Comment Period End Date: 6/17/2020

Rule Type/Number of Rules:

New/ 1 rules

No Change/ 5 rules (FYR?     )

Amended/ 15 rules (FYR?     )

Rescinded/ 2 rules (FYR?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

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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.

### **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.*

- **4703-1-01 Definitions** (Amendment): Edited the meaning of “good moral character” to be more narrowly construed.
- **4703-1-02 Applications** (Amendment): In accordance with R.C. 9.78, added a provision for Board review of potential applicant’s criminal convictions to determine eligibility for registration; Edited for grammar.
- **4703-1-03 Certificates** (Amendment); Edited for clarity.
- **4703-1-04 Fees** (Amendment); Rescinded fee for renewal cards, as cards are no longer provided; Added reference to the elicense transactional fee charged to the Board; Created a \$25 fee for the new criminal conviction review, in accordance with R.C. 9.78.

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- **4703-2-01 Examination** (Amendment): Edited for grammar, and to clarify that NCARB sets the instructions for the ARE
- **4703-2-03 Educational requirements and credits** (Rescind/ New Rule): Streamlined rule for clarity
- **4703-2-04 Training Requirements** (Amendment): Edited for grammar and to reflect NCARB change from IDP to AXP
- **4703-2-05 Registration by Reciprocity** (Amendment): Edited for grammar
- **4703-2-06 Program providing for reimbursement of AXP enrollment fees** (Amendment): Edited for grammar, to reflect NCARB change from IDP to AXP
- **4703-2-07 Continuing Education** (Amendment): Edited for clarity and grammar.
- **4703-2-08 Military provisions related to licensure Amendment** (Amendment): Edited to reflect NCARB change from IDP to AXP; Corrected typographical error.
- **4703-3-01 Seal Requirements** (Amendment): Corrected for grammar; Rescinded electronic seal requirement regarding view only format due to needs of building departments to review, correct electronic plans.
- **4703-3-02 Architectural Firms** (Amendment): Corrected typographical error; added provision from 4703-3-04 that each firm office must have its own registered architect in responsible charge. Rescinded requirement of number of hours said architect must physically be present.
- **4703-3-03 Firm Names** (No change)
- **4703-3-04 Branch offices** (Rescind): Rescinded to reflect modern office practices and tele-commuting of firm employees. Reincorporated in part in 4703-3-02.
- **4703-3-05 Interstate practice** (Amendment): Corrected apparent conflict in rule that indicated the unlicensed foreign architect must be licensed in Ohio before offering services; Edited for grammar and clarity; Added requirement that unlicensed architect must disclose license status to would-be client.
- **4703-3-06 Injunctions:** (No change)
- **4703-3-08 Professional Responsibility:** (No change)
- **4703-3-09 Written contract:** (No change)
- **4703-3-10 Authorship and control:** (No change)
- **4703-3-12 Design build** (Amendment): Edited for clarity
- **4703-3-13 Communication:** prohibition of improper contacts (Amendment): Corrected for grammar

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- 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.**

Authorized by RC 4703.02, 4703.06, and 4703.07; Amplified by RC 4703.01 - 4703.19, RC 4743.02, RC 4743.04, RC 5903.01, RC 5903.03, RC 5903.04, RC 5903.10, RC 5903.12, RC 5903.121, and RC 153.7.

- 4. 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.*

No.

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

N/A

- 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 requirements of Revised Code Chapter 4703 and the rules promulgated pursuant to that chapter provide for the licensure of architects in Ohio. The rules ensure that uniform standards of excellence for all new and reciprocal licensees and ensure continued compliance with Ohio's laws through education and enforcement. These standards serve to protect the public by ensuring the safety of the built environment.

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

The success of the rules can be measured by eliciting feedback from the public, stakeholders, and any interested parties regarding the clarity and impact of the rules, as well as reviewing reports and statistics of complaints and negative events in landscape architecture.

The Board encourages candid input from the industry and the public to ascertain the effect of a regulation and whether improvements or amendments to the regulations are necessary to be considered. The rules will be considered successful when the architecture industry has clear, professional guidelines for the practice and for interacting with the Board and its clients. The rules will also be deemed successful with the timely renewal and fee payment by architect licensees.

The Board currently audits licensees for compliance with the ongoing continuing education requirements, and investigates complaints received about its licensees. Through these

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processes, the Board will be able to monitor and identify any issues relating to specific landscape architects or deficiencies in the education, licensing, and/or discipline programs that the Board administers and will be able to address any such problems on an ongoing basis. Further, any potential disciplinary or compliance issues with licensees that arise will provide feedback on whether the licensees are being accurately instructed on particular matters or whether the content that these continuing education courses should be modified to address recurring issues.

- 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?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No

### **Development of the Regulation**

- 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 stakeholder groups included NCARB (Council of Architect Registration Boards), Ohio Chapter of AIA, CLARB (Council of Landscape Architect Registration Boards), OCASLA (Ohio Chapter of the American Society of Landscape Architects), American Society of Landscape Architects (ASLA), ASLA (American Society of Landscape Architects), NAAB (National Architectural Accrediting Board Inc.), OBOA (Ohio Building Officials Association), the Ohio Board of Building Standards (BBS), APA (American Planning Association), and the Ohio Chapter APA. The Ohio Chapter of AIA attended Board meetings discussing the rules, and all stakeholders were contacted by email on October 22, 2019 and given an opportunity to provide rule feedback.

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

The rules contained minimal changes, and the only feedback provided was positive and supportive of the proposed rules

- 11. 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?**

No scientific data was used to develop the rules or the measurable outcomes of the rules.

- 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? If none, why didn't the Agency consider regulatory alternatives?**

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The Board is required by RC Chapter 4703 to regulate the architecture profession through licensure and the establishment of minimum competencies, to ensure the safety of the public and the built environment. Most of these rules are narrowly tailored to ensure these competencies and align with the requirements of other state in order to facilitate reciprocal licensure. The Board did consider alternatives to the existing regulation regarding “branches” of architecture firms, OAC 4703-3-04. Given modern office practices and tele-commuting of firm employees, the Board decided to rescind and restructure these requirements.

**13. 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.*

No. These rules are not appropriate for performance-based regulation.

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

The Board is the only agency that regulates the practice of architecture in Ohio, and therefore there is no duplicative regulation.

**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**

Board staff is available to assist all licensees with any questions or concerns regarding these rules. The Board continues to collaborate with its stakeholder groups to ensure the program is implemented in a thoughtful and productive manner.

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

The business community impacted by these rules are individual architects and architectural firms. These are the regulated persons and the groups who employ them. These businesses are adversely affected by the fees associated with licensure, late fees/fines for noncompliance, and the personnel time to complete the applications or renewals. The adverse impact amounts to the

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fees set forth in OAC 4703-1-04, which includes: \$50 for an initial architect license or \$250 for a reciprocal license; \$125 for architect license renewals; \$125 for a firm license; and \$100 for firm renewals. The forms are very simple and streamlined, and therefore the personnel hours need to complete them are negligible and impossible to quantify.

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

The Board regulates the architecture profession through licensure and the establishment of minimum competencies, to ensure the safety of the public and the built environment. The licensure rules protect the health, safety, and welfare of the public and are narrowly tailored to provide that protection with a minimal cost.

**Regulatory Flexibility**

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

No. There are no exemptions or alternative means of compliance for small businesses. The need for uniformity in standards for architects is essential to ensure the safety of the built environment. Therefore, the Board must follow the same procedures for all licensees and the application and complaint process is no different for small or big businesses.

**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?**

The rules do not mandate the collection of information, and thus their violation would not implicate RC 119.14.

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

The Board's website provides comprehensive information and updates. Staff of the Board personally answer and respond to each phone call, email, correspondence, etc.