



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Edward Woodruff, Ohio Department of Commerce

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: May 14, 2021

RE: **CSI Review – Rules Regarding Ohio Real Estate Appraisers (OAC 1301:11-1-01, 1301:11-1-02, 1301:11-1-03, 1301:11-1-05, 1301:11-1-08, 1301:11-1-09, 1301:11-1-10, 1301:11-3-01, 1301:11-3-03, 1301:11-3-04, 1301:11-3-05, 1301:11-3-06, 1301:11-3-08, 1301:11-4-02, 1301:11-7-01, 1301:11-7-02, 1301:11-7-03, and 1301:11-7-04)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of six amended rules and twelve no change rules proposed by the Division of Real Estate and Professional Licensing (Division) at the Ohio Department of Commerce (Department), as part of the statutory five-year review process. This rule package was submitted to the CSI Office on April 6, 2021, and the public comment period was held open through April 20, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 6, 2021.

The rules in this package address licensing and certification requirements for individuals engaged in residential or general appraising, processes of the Real Estate Appraiser Board, reciprocity agreements with other states to recognize real estate appraiser licenses from out-of-state, and disciplinary actions regarding inappropriate conduct by appraisers. The Division states in the BIA that the rules implement federal requirements for states to set appraiser standards that are no less stringent than those established by the Appraiser Qualifications Board.

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OAC 1301:11-1-01 instructs the Real Estate Appraiser Board (Board) to publish notices describing the intention to adopt, amend or rescind a rule in the Register of Ohio and permits the Board to provide additional notice as it deems necessary. OAC 1301:11-1-02 permits any person to request electronic or printed notification regarding meetings of the Board, requires the Board to provide notice to persons who request such notification at least five days before each regularly scheduled meeting, and specifies that any fees shall be assessed in conformity with the Department's public records policy and Ohio Public Records law. OAC 1301:11-1-03 outlines applicable nonrefundable fees that are assessed by the Board, ranging from \$20 for individual credential certifications to \$175 for initial certification as a general real estate appraiser. The rule additionally permits the Board to determine the amount due from each applicant annually and to adopt rules as necessary to reflect the fee change. The rule has been amended to change the examination fee for certification as a general real estate appraiser or for certification or licensure as a residential real estate appraiser from \$125 to instead equal the price set forth in the agreement between the superintendent and the testing vendor. The Department states in the BIA that the testing vendor is selected through the bidding process.

OAC 1301:11-1-05 permits the Board to enter (or cancel without notice) reciprocity agreements with regulatory authorities in other states to waive examination requirements for real estate appraisers who are licensed or certified in another state. OAC 1301:11-1-08 describes the process for licensed real estate appraisers from other states to obtain an Ohio license. The rule has been amended to consolidate existing language and remove redundancies. OAC 1301:11-1-09 states that the stenographic record of an adjudication hearing shall be provided by audio or video electronic recording devices, unless otherwise requested. The rule additionally states that if the requesting party selects a stenographic service in lieu of audio or video recording, the requesting party shall pay the costs for the service.

OAC 1301:11-1-10 permits real estate appraisers who have been notified regarding possible disciplinary action to enter into a settlement agreement with the superintendent acknowledging the appraiser's conduct is subject to discipline and permitting the superintendent to make a recommendation to the Board pertaining to potential disciplinary action. The rule has been amended to correct a typographical error and to specify that an appraiser may voluntarily surrender the appraiser's license, certificate or registration, provided that the appraiser also agrees not to apply for an Ohio appraisal management company license in the future, in addition to agreeing not to apply for an Ohio appraiser certificate, license or registration.

OAC 1301:11-3-01 establishes a definition for nationally recognized appraisal organizations. OAC 1301:11-3-03 outlines the education requirements for applicants seeking residential real estate appraiser licenses, residential real estate appraiser certifications, and general real estate appraiser

certifications. OAC 1301:11-3-04 outlines the experience requirements for applicants seeking residential real estate appraiser licenses, residential real estate appraiser certifications, and general real estate appraiser certifications. The rule has been amended to abbreviate Appraiser Qualifications Board using the acronym AQB, to qualify Practical Applications of Real Estate Appraisal (PAREA) programs toward experience requirements, and to incorporate the list of requirements the AQB uses in reviewing and approving PAREA offerings.

OAC 1301:11-3-05 outlines the examination requirements for a general real estate appraiser certificate, residential real estate appraiser license, or residential real estate appraiser certificate, and requires that an applicant satisfy all fee, education, experience, and background requirements prior to taking the examination. OAC 1301:11-3-06 describes the process for an out-of-state appraiser to obtain a temporary (6 month) registration to practice in Ohio and outlines various requirements for obtaining the license—including payment of a fee, a description of the out-of-state license or certificate held by the applicant and any disciplinary action taken against the applicant, an agreement to comply with applicable laws and rules of the state, and information sufficient to identify the appraisal assignment or special service that is being performed under the temporary practice registration.

OAC 1301:11-3-08 outlines the criminal records check process that must accompany an application for registration, licensure, or certification. The rule has been amended to remove a deadline for the Bureau of Criminal Investigation (BCI) to submit the results of the background check to the Division. OAC 1301:11-4-02 describes the education requirements for registration as a real estate appraiser assistant. OAC 1301:11-7-01 sets forth continuing education requirements for registered, licensed, or certified real estate appraisers, while OAC 1301:11-7-02 describes the requirements that continuing education providers must meet to be approved by the Division. OAC 1301:11-7-03 establishes additional criteria for continuing education providers seeking Division approval of distance learning continuing education classes. Lastly, OAC 1301:11-7-04 permits the superintendent to grant a medical exception on behalf of a registered, licensed, or certified real estate appraiser if the registrant, license holder, or certificate holder files a written request for a medical exception along with satisfactory proof. If the Division grants the exception, the license holder has thirty days after approval to complete the renewal application, pay relevant fees, and complete continuing education requirements and be relicensed, though the superintendent may grant an extension of the deadline upon good cause.

During early stakeholder outreach, the Division sent the proposed rules to Hondros College, the Ohio Realtors, the Ohio Coalition of Appraisal Professionals, and the Ohio Chapter of the Appraisal Institute. The Division also consulted with the Ohio Real Estate Appraiser Board. In response to feedback from the Ohio Realtors, the Division revised the proposed rules. No

comments were received during the CSI public comment period.

The business community impacted by the rules includes out-of-state individuals licensed as appraisers seeking to practice in Ohio, individuals currently or seeking to become registered, licensed or certified appraisers, and entities that offer education courses for purposes of becoming an appraiser. The adverse impact includes a variety of fees depending on the license or certification the applicant is seeking. The rules specify an application fee ranging from \$20 (credential certification for individuals) to \$175 (certification as a general real estate appraiser or licensure as a residential real estate appraiser). Applicants seeking licensure or certification as residential real estate appraisers or general real estate appraisers are also required to pass an examination, which costs \$90. Applicants must also pay for a fingerprint-inclusive criminal background check costing between \$50-75. Applicants are assessed a \$40 pass-through fee and a \$50 recovery fund fee if seeking permanent Ohio licensure based on holding a residential real estate appraiser license from another state. Licensees from out-of-state who seek to obtain *temporary* licensure to practice in Ohio must pay a \$100 registration fee and complete an application estimated to take approximately 30 minutes, according to the BIA. The adverse impact also includes the administrative effort necessary to complete such applications and submit relevant documentation, which the Division estimates taking between 30 minutes to one hour, depending on the license.

The adverse impact to business also includes the costs and time necessary for applicants to complete required appraisal specific classes and serve under the supervision of a certified appraiser for between 6-30 months, depending on the type of license or certification desired. The Division estimates a cost of \$200-400 per class. Applicants are also required to complete between 150-300 hours of class training when obtaining their initial license or certification. Once licensed or certified, appraisers must also complete 14 hours of continuing education classes annually, with class costs ranging from \$100-300 per class. Lastly, entities seeking to offer courses that qualify applicants for initial licensure or that count toward continuing education requirements for existing licensees must pay an application fee of \$50-200 and complete an application (1-2 hours of administrative effort) in order to offer an education course approved by the Division. The Division states in the BIA that the adverse impact to business is necessary to ensure that appraisers are competent to complete real estate appraisals and to ensure that the state complies with federal requirements. Failing to comply with federal requirements would result in appraisals conducted by Ohio-licensed appraisers being deemed invalid, which would hamper the mortgage-lending industry in Ohio and harm consumers.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Division of Real Estate and Professional Licensing at the Ohio Department of Commerce should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.