



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

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Business Impact Analysis

Agency, Board, or Commission Name: Division of Real Estate & Professional Licensing

Rule Contact Name and Contact Information:

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

Rules Regarding Ohio Real Estate Appraisers

Rule Number(s): 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,

1301:11-7-04

Date of Submission for CSI Review: 4/1/2021

Public Comment Period End Date: 4/6/2021- 4/20/2021

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 12 rules (FYR? Yes)

Amended/ 6 rules (FYR? Yes)

Rescinded/ 0 rules (FYR?)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.

1301:11-1-01 – **Proposed no change** - The rule provides the procedure in giving public notice, as required by law, of the intention to consider adopting, amending or rescinding a rule or regulation.

1301:11-1-02 – **Proposed no change** - The rule provides the procedure for providing public notice of a Board meeting.

1301:11-1-03 – **Proposed change** – The rule provides compliance with the rule-making requirements found in Ohio Revised Code Section 4763.03(A)(1)(e) & 4763.09. The rule establishes fees for real estate appraiser applicants.

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Paragraph (A) – Proposed change properly reflects the Ohio real estate appraiser examination is conducted by an independent testing vendor. The examination fee is established by contract with the testing vendor and the Department of Commerce. The testing vendor is selected through the State’s bidding process.

1301:11-1-05 – **Proposed no change** – The rule provides compliance with the rule-making requirement found in Ohio Revised Code Section 4763.05(E)(1), which grants the Ohio Real Estate Appraiser Board (Board) the authority to adopt rules regarding reciprocal agreements with other state agencies.

1301:11-1-08 – **Proposed change** - 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 for “Licensed Appraisers”. These laws require states to implement appraiser requirements that are no less stringent than those issued by AQB.

The purpose of this rule is to establish the procedure for an out of state licensed or certified appraiser to obtain an Ohio residential real estate appraiser license or certification. The requirements set forth in the rule are consistent with AQB requirements.

Paragraphs (A), (B), (C) & (E) – Proposed change consolidates the redundancy in the existing rule into one paragraph and describes the process the Division must take to serve an out of state appraiser holding an Ohio appraiser credential.

1301:11-1-09 – **Proposed no change** - This rule establishes the Division shall provide a record of hearings conducted within the Division’s regulating authority, and the procedure in which the record is produced and made available to interested parties.

1301:11-1-10 – **Proposed change** – This rule establishes the requirements for settlement agreements entered into by the Superintendent and an Ohio appraiser licensee, certificate holder or registrant that has been charged with violating license law.

Paragraph (F) – Proposed change corrects a typographical error and modifies the rule to consistently reflect AQB requirements for appraisal management company credentials.

1301:11-3-01 – **Proposed no change** - This rule defines a term, “Nationally recognized appraisal organization” that is used within Ohio Administrative Code 1301:11-3-03.

1301:11-3-03 – **Proposed no change** – This rule establishes the education requirements for applicants seeking real estate appraiser licenses or certificates.

1301:11-3-04 – **Proposed change** – This rule establishes the experience requirements for applicants seeking real estate appraiser licenses or certificates.

Paragraphs (A), (B), (C), & (K) – Proposed change to reduce redundancy and to use commonly recognized acronym AQB rather than Appraiser Qualifications Board.

Paragraph (D) – Proposed addition to acceptable appraisal experience includes Practical Applications of Real Estate Appraisal (PAREA) programs recently approved by the AQB.

Paragraph (P) – Proposed addition incorporates by reference the list of requirements the AQB utilizes to review and approve PAREA offerings. Likewise, the addition specifies the acceptable number of experience hours for PAREA participants and providers. All the proposed changes are consistent with AQB requirements.

1301:11-3-05 – **Proposed no change** – This rule establishes the examination for applicants seeking real estate appraiser licenses or certificates.

1301:11-3-06 – **Proposed no change** – This rule establishes the requirements for an out of state credential holding appraiser can obtain a temporary registration to appraise in Ohio. The requirements in the rule are consistent with AQB requirements.

1301:11-3-08 – **Proposed change** – This rule establishes the process for an appraiser applicant to complete a criminal background check as required by Ohio Revised Code Section 4763.05.

Paragraph (A) – Removes time deadline imposed by the Board upon the Ohio Bureau of Criminal Identification and Investigation to produce background check reports to the Division.

1301:11-4-02 – **Proposed no change** – This rule establishes the education requirements for applicants who want to obtain an Ohio real estate appraiser assistant registration. This rule is required by Ohio Revised Code Section 4763.05(C) and is consistent with AQB requirements.

1301:11-7-01 – **Proposed no change** – This rule establishes the continuing education requirements for registered, licensed or certified Ohio real estate appraisers. The requirements set forth in this rule are consistent with AQB requirements.

1301:11-7-02 – **Proposed no change** – This rule establishes the requirements education providers must satisfy in order to receive Division approval to offer a continuing education class for Ohio real estate appraisers. The requirements set forth in this rule are consistent with AQB requirements.

1301:11-7-03 – **Proposed change** - This rule establishes the requirements for a course provider seeking approval for a continuing education class offered in a distance education setting.

Paragraph (K) – The proposed change is recommended to make the rule consistent with AQB requirements.

1301:11-7-04 – **Proposed no change** – This rule establishes when a medical exception to the annual appraiser renewal requirements may be applicable. The rule also establishes the procedure for an applicant to follow when applying for a medical exception.

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.

1301:11-1-01 is authorized by Ohio Revised Code (ORC) Section 4763.03 and amplified by ORC Section 4763.03.

1301:11-1-02 is authorized by ORC Section 4763.03 and amplified by ORC Section 4763.03.

1301:11-1-03 is authorized by ORC Section 4763.03 & 4763.09 and amplified by ORC Section 4763.03, 4763.05 & 4763.09.

1301:11-1-05 is authorized by ORC Section 4763.03 & 4763.05 and amplified by ORC Section 4763.05.

1301:11-1-08 is authorized by ORC Section 4763.03 & 4763.05 and amplified by ORC Section 4763.05.

1301:11-1-09 is authorized by ORC Section 119.03 & 4763.03 and amplified by ORC Section 119.09, 4763.05, 4763.10 & 4763.11.

1301:11-1-10 is authorized by ORC Section 4763.03 and amplified by ORC Section 4763.11.

1301:11-3-01 is authorized by ORC Section 4763.03 and amplified by ORC Section 4763.05.

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

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

1301:11-3-05 is authorized by ORC Section 4763.03 and amplified by ORC Section 4763.05.

1301:11-3-06 is authorized by ORC Section 4763.03 & 4763.05 and amplified by ORC Section 4763.05.

1301:11-3-08 is authorized by ORC Section 4763.03 & 4763.05 and amplified by ORC Section 4763.05 & 4763.09.

1301:11-4-02 is authorized by ORC Section 4763.03 & 4763.05 and amplified by ORC Section 4763.05.

1301:11-7-01 is authorized by ORC Section 4763.03 & 4763.07 and amplified by ORC Section 4763.03 & 4763.07.

1301:11-7-02 is authorized by ORC Section 4763.03, 4763.07, 4763.09 and amplified by ORC Section 4763.07.

1301:11-7-03 is authorized by ORC Section 4763.03, 4763.07 & 4763.09 and amplified by ORC Section 4763.07.

1301:11-7-04 is authorized by ORC Section 4763.03, 4763.06, 4763.07 and amplified by ORC Section 4763.06 & 4763.07.

- 4. Does the regulation implement a federal requirement? Yes. 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? Yes**
If yes, please briefly explain the source and substance of the federal requirement.

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 for “Licensed Appraisers”. These laws require states to implement appraiser requirements that are no less

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stringent than those issued by AQB. 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.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.** No.
- 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)?**
- All of 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.
- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**
- Division staff will interact with every education provider applicant and Division staff will review every application for compliance. Division staff also receives comments from the public at outreach functions and through public inquiries filed with the Division.
- 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? No.**
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

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 Division receives comments from the public, appraisers and education providers concerning rules and whether they require modification. On February 9, 2021, 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 purpose of the communications was to obtain their comments about the proposed changes to the rules and

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how they will affect the business community. The Division received comments from Peg Ritenour at the Ohio Realtors and John McIntyre at the Real Property Valuation Forum for the Ohio Realtors. In February of 2021, 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. The Board considered and implemented the suggestion by Mr. McIntyre to 1301:11-1-10(F).

- 10. 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.
- 11. What scientific data was used to develop the rule or the measurable outcomes of the rule?** Not Applicable. **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.
- 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?** None. **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.
- 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.

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.
- 14. 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.
- 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 regulated community.** The Division publishes a newsletter. The Division will include an article in the newsletter explaining the proposed rules. The Division will also publish the rules on its website. The Division will directly communicate with stakeholders informing them of the implementation of the proposed rules. Lastly, Division staff responsible for enforcement of these proposed rules will receive training.

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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

The stakeholders affected by these proposed changes are identified below:

1301:11-1-01 - Any person interested when the Board reviews a rule.

1301:11-1-02 - Any person interested about a Board meeting.

1301:11-1-03 – Any person interested in obtaining an Ohio appraiser credential

1301:11-1-05 – Any out of state appraiser credential holder seeking to obtain a corresponding Ohio appraiser credential through reciprocal agreement.

1301:11-1-08 - Any out of state licensed or certified appraiser

1301:11-1-09 - Any person interested in an adjudication hearing held before the Division or the Board

1301:11-1-10 - Any Ohio appraiser notified by the Superintendent with a notice of opportunity for hearing concerning a violation of Ohio Revised Code Section 4763.11.

1301:11-3-01 - Any education provider or any person applying for or considering a new Ohio appraiser registration, license or certificate

1301:11-3-03 - Any person applying for or considering a new Ohio appraiser license or certificate

1301:11-3-04 - Any person applying for or considering a new Ohio appraiser license or certificate or a supervisory appraiser

1301:11-3-05 - Any person applying for or considering a new Ohio appraiser license or certificate or a supervisory appraiser

1301:11-3-06 – Any person applying for or considering an Ohio temporary registration who is a licensed or certified appraiser in another state.

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1301:11-3-08 - Any person applying for or considering a new Ohio appraiser registration, license or certificate

1301:11-4-02 - Any applicant applying for or considering a new Ohio registered real estate appraiser assistant registration

1301:11-7-01 - Any Ohio licensed, registered or certified appraiser

1301:11-7-02 - Any education provider or any Ohio licensed, registered or certified appraiser

1301:11-7-03 - Any education provider or any Ohio licensed, registered or certified appraiser

1301:11-7-04 - Any Ohio licensed, registered or certified appraiser

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

1301:11-1-01 - A stakeholder will have no adverse impact from this rule.

1301:11-1-02 - A stakeholder will have no adverse impact from this rule.

1301:11-1-03 – There is no new or additional adverse impact. The existing rule requires an applicant will need to spend money paying the fee associated with each application.

1301:11-1-05 – A stakeholder will have no adverse impact from this rule.

1301:11-1-08 - There is no new or additional adverse impact. The existing rule requires an appraiser applicant to spend time and money to complete the application process.

1301:11-1-09 - A stakeholder will have no adverse impact from this rule unless they voluntarily use a stenographic service other than the one provided by the Division.

1301:11-1-10 - A stakeholder will have no adverse impact from this rule.

1301:11-3-01 - A stakeholder will have no adverse impact from this rule.

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1301:11-3-03 - There is no new or additional adverse impact. The existing rule will require appraiser applicants to spend time and money to meet the education requirements as required by the AQB.

1301:11-3-04 - There is no new or additional adverse impact. The existing rule will require appraiser applicants to spend time and money to meet the experience requirements as required by the AQB. The proposed addition will provide appraiser applicants another viable alternative to satisfy their experience requirement.

1301:11-3-05 – There is no new or additional adverse impact. The existing rule will require appraiser applicants to spend time and money to pass the corresponding examination as required by the AQB.

1301:11-3-06 – There is no new or additional adverse impact. The existing rule requires applicants to spend time completing the application and paying the application fee. This registration process is required by the AQB.

1301:11-3-08 - There is no new or additional adverse impact. The existing rule requires an appraiser applicant to spend time and money to complete the criminal background check as required by the Ohio Revised Code Section 4763.05.

1301:11-4-02 - There is no new or additional adverse impact. The existing rule requires an applicant (registrant) to spend time and money to meet the education requirements as required by the AQB.

1301:11-7-01 - There is no new or additional adverse impact. The existing rule requires an appraiser applicant to spend time and money to meet the continuing education requirements as required by the AQB.

1301:11-7-02 - There is no new or additional adverse impact. The existing rule requires an education provider seeking to provide continuing education classes to appraisers in a tradition classroom setting to spend time and money to complete the application process.

1301:11-7-03 - There is no new or additional adverse impact. The existing rule requires an education provider seeking to provide continuing education classes to appraisers in a distance education setting to spend time and money to complete the application process.

1301:11-7-04 - There is no new or additional adverse impact. The existing rule requires an appraiser applicant to spend time completing the application process.

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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.

1301:11-1-01 - A stakeholder will have no adverse impact from this rule.

1301:11-1-02 - A stakeholder will have no adverse impact from this rule.

1301:11-1-03 – An applicant will have to pay the corresponding application fee established in the rule. An applicant will have to spend time completing the application. The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour to complete the application.

1301:11-1-05 – A stakeholder will have no adverse impact from this rule.

1301:11-1-08 - An applicant will have to pay a \$265.00 application fee, consisting of a \$175.00 application fee, a \$40.00 federal pass through fee and a \$50.00 recovery fund fee. An applicant will have to spend time completing the application. The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour to complete the application.

1301:11-1-09 - A stakeholder will have no adverse impact from this rule unless a stakeholder voluntarily chooses to employ their own stenographic service rather than use the stenographic service provided by the Division. An estimated hourly rate for a stenographic service is \$55.00 per hour.

1301:11-1-10 - A stakeholder will have no adverse impact from this rule.

1301:11-3-01 - A stakeholder will have no adverse impact from this rule.

1301:11-3-03 - As a result of AQB requirements, there is college level education required for certified appraisers. In addition, applicants must also complete additional appraisal specific classes, which cost between \$200 and \$400 per class. Applicants for a real estate appraiser license must complete at least 150 hours. Applicants for a residential real estate appraiser certificate must complete at least 200 hours and applicants for a general real estate appraiser certificate must complete at least 300 hours.

1301:11-3-04 - As a result of AQB requirements, applicants seeking a residential appraiser license must serve at least six months under the supervision of a certified appraiser. Applicants seeking a residential appraiser certificate must serve at least twelve months under the supervision of a certified appraiser. Applicants seeking a general appraiser certificate must serve at least thirty months under the supervision of a certified appraiser.

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Applicants completing an AQB approved PAREA program will need to spend the time required by the AQB to successfully complete the PAREA offering.

1301:11-3-05 – As a result of AQB requirements, applicants must pass the corresponding license or certified examination. The examination fee is \$90.00 payable to the testing vendor. An applicant will also need to spend time studying for the examination. The amount of studying time will vary from applicant to applicant.

1301:11-3-06 – Applicants must pay a \$100 registration fee (\$50 application fee and \$50 recovery fund fee) and must complete the corresponding application which should take less than 30 minutes to complete.

1301:11-3-08 - The Division estimates it would take less than an hour for the applicant to complete the fingerprint process for the criminal records check. The Division estimates the fingerprint process costs between \$50 and \$75 for state and national criminal background checks.

1301:11-4-02 - As a result of AQB requirements, applicants must complete at least 75 hours of education in appraisal specific classes, which cost between \$200 and \$400 per class.

1301:11-7-01 - As a result of AQB requirements, licensed, certified and registered appraisers must complete annually at least 14 hours of continuing education classes. The Division estimates classes cost between \$100 and \$300 per class.

1301:11-7-02 - The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour for the applicant to complete the application. The application fee is \$50.00 for a continuing education class offered in a classroom setting.

1301:11-7-03 - The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take between 1 and 2 hours for the applicant to complete the application. The application fee is \$200.00 for a continuing education class offered in a distance education setting.

1301:11-7-04 - The amount of time spent completing the application will vary from applicant to applicant. The Division estimates it would take less than an hour for the applicant to complete the application.

17. 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

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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

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

The Division recognizes that most appraisers and education providers that service appraisers are small businesses. The rules are federally required and are designed with the small business owner in mind.

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?

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.

20. 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.