



Common Sense Initiative

Mike DeWine, 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):

Ohio Home Inspector Education Rules

Rule Number(s): 1301:17-1-07, 1301:17-1-10, 1301:17-1-11, 1301:17-1-16 & 1301:17-1-17

Date of Submission for CSI Review: TBD

Public Comment Period End Date: TBD

Rule Type/Number of Rules:

New/ 0 rules

No Change/ 0 rules (FYR? N/A)

Amended/ 5 rules (FYR? No)

Rescinded/ 0 rules (FYR? N/A)

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 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.

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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.

1301:17-1-07 – **Proposed change** - The intent of this regulation is to ensure home inspector applicants are sufficiently educated and competent to complete home inspections.

Paragraph (A) – As a result of the changes proposed in OAC 1301:17-1-11, the proposed change is needed to reference the correct paragraph in the rule. The proposed amendment also re-defines different types of qualifying & continuing education courses, especially “online” offerings, to account recent market changes in online offerings resulting from the health emergency.

Paragraph (H)(4) - A minor clerical change is proposed to correct a regulation citation.

1301:17-1-10 – **Proposed change** - The intent of this regulation is to ensure home inspector licensees are regularly completing education offerings that maintain or increase a licensee’s skill, knowledge and competency in home inspection.

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Paragraphs (F) & (H)(2) - As a result of the proposed changes to OAC 1301:17-1-11, the proposed amendment is needed to reference the correct paragraph in the rule.

1301:17-1-11 – Proposed change - The intent of this regulation is to ensure education providers, who are offering home inspector continuing education, provide effective offerings that increase a licensee’s skill, knowledge and competency.

Paragraph (A) - The proposed amendment re-defines different types of qualifying & continuing education courses, especially “online” offerings, to take account recent market changes in online offerings resulting from the health emergency.

Paragraph (B) – The proposed language clarifies the course provider requirements for asynchronous education offerings and distinguishes these requirements from synchronous education offerings requirements.

1301:17-1-16 – Proposed change - The intent of this regulation is to establish the canons of ethics to be followed by Ohio home inspector licensees as required by Ohio Revised Code Section 4764.05(A)(13).

Paragraph (A)(4) – A minor clerical change is proposed.

Paragraphs (A)(9) & (A)(10) – The proposed amendments are clarifying or reflecting Ohio home inspector licensee reporting requirements as a result of recent market developments.

Paragraphs (B)(7) & (E)(4) – A minor clerical change is proposed to ensure the correct statutory reference is cited within the rule.

1301:17-1-17 – Proposed change - The intent of this regulation is to establish the standards of practice to be followed by Ohio home inspector licensees as required by Ohio Revised Code Section 4764.05(A)(10).

Paragraph (F) – A minor clerical change is proposed to correct a regulation citation.

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.**

1301:17-1-07 – Home Inspector Qualifying Education - Authorized by ORC Section 4764.05(A)(3); Amplified by ORC Section 4764.07

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1301:17-1-10 – Continuing Education for Licensees - Authorized by ORC Section 4764.05(A); Amplified by ORC Section 4764.08 & 4764.09

1301:17-1-11 – Continuing Education Approvals for Education Providers - Authorized by ORC Section 4764.05(A); Amplified by ORC Section 4764.08 & 4764.09

1301:17-1-16 – Canons of Ethics - Authorized by ORC Section 4764.05(A)(13); Amplified by ORC Section 4764.05(A)(13)

1301:17-1-17 – Standards of Practice - Authorized by ORC Section 4764.05(A)(10); Amplified by ORC Section 4764.05(A)(10)

4. **Does the regulation implement a federal requirement? No. 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? No.**
If yes, please briefly explain the source and substance of the federal requirement.

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

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 purpose of the regulation is to comply with rule-making requirements established by the Ohio General Assembly in Ohio Revised Code Chapter 4764 and to ensure Ohio home inspector licensees and applicants are properly trained and educated to complete home inspections. It is also necessary for the stability of our economy for home inspectors to have the required skills and knowledge as their services directly affect real property transactions.

7. **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.

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.

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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, industry participants, professional organizations and education providers concerning these rules. On April 19, 2022, the Division presented the Ohio Home Inspector Board (Board) with the proposed amendments to these rules at a public meeting where public comments were solicited. Five of the seven current board members are Ohio home inspector licensees. The Board reviewed the proposed changes, listened to public and licensee comments, and instructed the Division to proceed with the remaining rule process for these five rules.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency? Comments provided by interested parties ranged from very specific suggestions affecting the proposed amendments to very general comments about the regulation of the home inspector industry. The Board and the Division considered all comments provided and implemented stakeholder suggestions that were in furtherance of the Ohio Revised Code Chapter 4764.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? These five rules are required by Ohio law. **How does this data support the regulation being proposed?** Not Applicable

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 existing rules are offered to satisfy the requirements established in Ohio law. The intentions of the proposed amendments are to clarify existing requirements in light of recent market developments and to ensure home inspectors are qualified and competent to complete home inspections, which 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.

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 home inspector licensees.

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 program updates on its website and regularly performs outreach programs for stakeholders. The Division will include an article that will directly inform and explain to stakeholders about the proposed amendments to the rules. Division staff responsible for enforcement of these proposed rules will also receive training.

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:

1301:17-1-07 – Home Inspector Qualifying Education - Any education provider offering home inspector qualifying education for persons seeking to obtain an Ohio home inspector license.

1301:17-1-10 – Continuing Education for Licensees – Any person applying for the renewal of his / her Ohio home inspector license.

1301:17-1-11 – Continuing Education Approvals for Education Providers – Any education provider seeking to offer home inspector continuing education in Ohio in satisfaction of a licensee's continuing education requirements.

1301:17-1-16 – Canons of Ethics – Any Ohio home inspector licensee

1301:17-1-17 – Standards of Practice – Any Ohio home inspector licensee

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

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1301:17-1-07 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

1301:17-1-10 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

1301:17-1-11 – There is no new or additional adverse impact to the stakeholder with the proposed changes. An applicant will be required to spend time and money under the existing requirements.

1301:17-1-16 – There is no new or additional adverse impact to the stakeholder with the proposed changes. A home inspector licensee will be required to spend time learning to comply with the rule's existing requirements as required by Ohio Revised Code Section 4764.05(A)(13).

1301:17-1-17 – There is no new or additional adverse impact to the stakeholder with the proposed changes. A home inspector licensee will be required to spend time learning to comply with the rule's existing requirements as required by Ohio Revised Code Section 4764.05(A)(10).

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.

1301:17-1-07 – The impact of the existing rule is an education provider will have to pay an application fee as required in the OAC 1301:17-1-03 and as authorized by Ohio Revised Code Section 4764.05. The amount of time spent completing the application will vary. The Division estimates it will take 30 minutes to complete the application.

1301:17-1-10 – The impact of the existing rule is an applicant will have to pay a renewal application fee as required in the OAC 1301:17-1-03 and as authorized by Ohio Revised Code Section 4764.05. The amount of time spent completing the application will vary. The Division estimates it will take 30 minutes to complete the application.

1301:17-1-11 – The impact of the existing rule is an education provider will have to pay an application fee as required in the OAC 1301:17-1-03 and as authorized by Ohio Revised

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Code Section 4764.05. The amount of time spent completing the application will vary. The Division estimates it will take 30 minutes to complete the application.

1301:17-1-16 – The impact of the existing rule is a licensee will have to spend some time reviewing the rule. The amount of time spent will vary from licensee to licensee, from a few minutes to several hours.

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

The existing rules are offered to satisfy the requirements established in Ohio law. The intentions of the proposed amendments are to clarify existing requirements in light of recent market developments and to ensure home inspectors are qualified and competent to complete home inspections, which is necessary for the stability of our economy.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain. The Division recognizes that Ohio home inspector licensees can be small businesses. The existing rules are the result of Ohio law. The rules and the amendments 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.

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