



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Construction Industry Licensing Board

Rule Contact Name and Contact Information: Aaron Johnston, Division Counsel: (614) 644-3297

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

Ohio Construction Industry Licensing Board: Applicant qualifications to take contractor licensing examination

Rule Number(s): 4101:16-2-01

Date of Submission for CSI Review: 3/26/24

Public Comment Period End Date: 4/02/24

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ 1 rules (FYR? X)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative was established in R.C. 107.61 and serves 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.*

This rule package allows for a broader range of applicants to qualify to take an examination for a license issued by the Ohio Construction Industry Licensing Board (the Board). Previous requirements only permitted applicants to provide W-2 and copies of permits pulled on commercial jobs to satisfy the experience requirements necessary to obtain a contractor license issued by the Board. Under the proposed rule, the range of permissible experience that can be considered by the Board is significantly broadened to include new categories and documentation. The proposed rule specifically permits the Board to consider Schedule Cs (certain 1099 forms as evidence), apprenticeship graduate certificates, journeyman cards, and continuing education hours taken by applicants as evidence of applicant experience.

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.**

R.C. 4740.04, 4740.05, 4740.06

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, this regulation does not implement a federal requirement, nor is it 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.

N/A

- 5. If the regulation implements a federal requirement, but 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)?**

Pursuant to Ohio Revised Code Section 4740.02 the Ohio General Assembly established the Ohio Construction Industry Licensing Board to regulate certain contractors to ensure the safety of their services. The nature of the services regulated (HVAC, hydronics, refrigeration, electrical, and plumbing) are such that any sort of inexperience or incompetence can cost lives. The industries are highly technical and potentially dangerous, and as such, the Board must ensure that each practitioner is highly qualified and continually trained. Section 4740.04 of the Revised Code authorizes the Board to adopt rules in accordance with Chapter 119. of the Revised Code as necessary to properly discharge the administrative section's duties under this chapter. The proposed rule specifically addresses the requirements associated with qualifying to sit for the examination to become a commercially licensed contractor in the state of Ohio.

The Board issues a license to any individual who the appropriate specialty section within the Board determines is qualified pursuant to section 4740.06 of the Revised Code. To be “qualified” the Revised Code requires that the applicant either have been a “tradesperson in the type of licensed trade for which the application is filed for not less than five years immediately prior to the date the application is filed, be a currently registered engineer in this state with three years of business experience in the construction industry in the trade for which the engineer is applying to take an examination, *or have other experience acceptable to the appropriate specialty section of the board.*” (Emphasis added).

The proposed rule broadens the criteria that Board may consider when evaluating the experience of applicants.

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

The Division works closely with stakeholders in the industry subject to this regulation to ascertain whether the regulation provides adequate clarity and ease of interpretation. The rule is successful when the total number of licensees permitted to sit for the examination increases, and/or when individuals previously denied, are now permitted under the new rule to sit for the examination.

- 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, these rules are not being submitted pursuant to those sections of the Revised Code.

### **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.*

Please see attached document.

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

The stakeholders are supportive of this entire rule without exception. Further, each of the specialty sections, including the administrative section, have reviewed, and unanimously approved all the proposed changes to the rule.

**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?**

These rules, which are promulgated pursuant to the requirements of Chapters 4140. and 119. of the Revised Code, are created based upon the clear requirements found in the law and input from stakeholders throughout the past year.

**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?**

*Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

The Division did not consider regulatory alternatives to the rule. The proposed rule considerably lessens the initial burden on applicants to satisfy the experience requirements previously in place for applicants to sit for an examination.

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

The Board rules are authorized by R.C. Chapter 4740. The Board is the only entity required and permitted to adopt rules necessary for implementing the provisions of Chapter 4740. In addition, the agency conducted a thorough review of the Ohio Revised Code and Ohio Administrative Code to ensure there are no other regulations in place pertaining to these specific rules.

**14. 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 Board will notify the industry about the rule package. The changes to applicant experience requirements will be posted on social media, the Board website, and emailed to stakeholders during the rulemaking process. Every application will be objectively evaluated based upon the criteria established in the amended rule.

**Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

The scope of the impacted business community includes potential applicants for Electrical, HVAC, hydronics, refrigeration, and plumbing commercial contractors' licenses.

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*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 proposed rule eases adverse impacts on applicants and likely increases the number of applicants that are qualified to sit for the examination. The only adverse impact is directly associated with the licensing of individuals that previously would not qualify to sit for the examination. New licensees would have opportunities that come with being a licensed contractor but also be responsible for compliance/licensing costs that are associated with all active licensees.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Yes, the proposed changes to the rule reduce the regulatory burden imposed on the business community. Eliminating obstacles to licensure by allowing new individuals, which previously did not qualify to sit for the examination, to become a licensed contractor, is the primary means by which the regulatory burden will be reduced. This provides individuals and small businesses the opportunity to work as, or employ, a commercially licensed contractor from a broader pool of individuals.

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

The rules, which are promulgated pursuant to the requirements of R.C. 4740, are intended to protect the safety of the public by ensuring competence and promoting excellence of electrical, HVAC, hydronics, refrigeration, and plumbing commercial contractors. While staying true to this goal, it is also the goal of the Board to promote efficiencies to ease burdens on licensees without jeopardizing the Board's role in oversight. Any potential adverse impact is more than offset by the ability of previously ineligible applicants to now qualify to sit for the licensing examination.

**Regulatory Flexibility**

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

No, licensing rules apply equally to all individual applicants that wish to sit for an examination to become a licensed contractor in the state of Ohio.

**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 compliance and enforcement actions established by these rules do not result in new or additional fines or penalties for paperwork violations.

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

The Board is easily accessible for information requests or questions via its website, by phone, and e-mail. The Board strives to assist small businesses to maintain compliance with each of the requirements of R.C. Chapter 4740 and O.A.C. Chapter 4101:16, through industry meetings, roundtable sessions, and other outreach events.

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