



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Landscape Architects Board

Rule Contact Name and Contact Information:

Shannon Himes, Executive Director

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

5 year rule review - Landscape Architecture Applications; Examinations, Registration, Seals and Firm Names

Rule Number(s): 4703:1-1-01, 4703:1-1-02, 4703:1-1-06, 4703:1-1-07, 4703:1-2-01, 4703:1-2-02, 4703:1-3-04, 4703:1-3-06

Date of Submission for CSI Review: 12/31/2020

Public Comment Period End Date: 1/14/2021

**Rule Type/Number of Rules:**

New/\_0\_ rules

No Change/\_4\_ rules (FYR? \_\_\_)

Amended/\_4\_ rules (FYR? \_\_\_)

Rescinded/\_0\_ rules (FYR?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

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**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.**

**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.*

The provisions govern the procedures for landscape architecture licensure in Ohio, including the definitions for the rules, the application process, the continuing education requirements to maintain licensure, military provisions related to licensure, the requirements for registration by examination and by reciprocity, the code of conduct for licensed landscape architects and the residency requirements for landscape architecture firm offices.

- 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.**

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RC 4703.33 and RC 4703.38 authorize the Board to adopt these rules. The rules amplify RC 4703.30, 4703.32, 4703.33, 4703.331, 4703.34, 4703.36, 4703.38, 4743.04, 5903.01, 5903.03, 5903.10, 5903.12, and 5903.121.

- 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 overarching purpose of the regulations regarding landscape architecture is to promote the health, safety, and welfare of Ohioans in the natural and built environment. Landscape Architecture is the analysis, planning, design, management, and stewardship of the natural and built environment. It includes the preparation and sealing of drawings, construction documents, and specifications and the administration of contracts in accordance with accepted professional standards of public health, safety, and welfare. The profession requires advanced education and experience in order to adequately perform these tasks.

Setting uniform minimum education, experience, and examination criteria for applicants helps to ensure minimum competencies in the profession, which thereby ensures that public areas are safe and adequately serve the needs and interests of the community.

- 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 landscape architecture industry has clear, professional guidelines for the practice and for interacting with the Board and its

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clients. The rules will also be deemed successful with the timely renewal and fee payment by landscape architect licensees.

The Board currently audits licensees for compliance with the ongoing continuing education requirements, and investigates complaints received about its licensees. Through these 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 CLARB (Council of Landscape Architect Registration Boards), OCASLA (Ohio Chapter of the American Society of Landscape Architects), ASLA (American Society of Landscape Architects), NCARB (Council of Architect Registration Boards), Ohio Chapter of AIA, American Society of Landscape Architects (ASLA), APLD (Association of Professional Landscape Designers), Ohio Chapter of APLD, ONLA (Ohio Nursery and Landscape Association), NAAB (National Architectural Accrediting Board Inc.), AmericanHort, CELA (Council of Educators of Landscape Architecture), 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 ASLA attended Board meetings discussing the rules, and all stakeholders were contacted by email on October 22, 2019 and February 27, 2020 and given an opportunity to provide rule feedback as well as attending multiple Board meetings.

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**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?**

The Landscape Architects Board is charged by Revised Code 4703.33 with licensing landscape architects and ensuring the continued competency of the profession in order to protect the health, safety and welfare of the natural and built environment. The requirements for licensure follow the national standards for licensure recommended by the Council for Landscape Architectural Registration Boards ("CLARB") and therefore the Board did not consider regulatory alternatives.

**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.)*

These regulations were mostly inappropriate for performance-based regulations.

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

The Ohio Landscape Architects Board is the only entity charged with overseeing the requirements for licensure for landscape architects. Therefore, there is no duplication.

**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 Board will communicate the rule changes to the regulated community through its website and through communications with the industry associations. Board staff will also be available to explain the rules and answer any questions. The changes to the regulations are minor and not expected to create many implementation difficulties.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

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- 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 landscape 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 and the continuing education classes. The adverse impact of these specific rules are the fees for licensure set forth in OAC 4703:1-1-05 (not part of this rule package), which includes: \$50 for an initial landscape architect license or \$250 for a reciprocal license; \$125 for landscape 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. Many continuing education classes are free and online, limiting the time commitment for the licensees.

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

The Board regulates the landscape architecture profession through licensure and the establishment of minimum competencies, to ensure the safety of the public and the natural and 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 natural and 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?**

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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 to assist small businesses and solo practitioners. Staff of the Board personally answer and respond to each phone call, email, and correspondence as well.

## SUMMARY OF RULE AMENDMENTS

RULE	TITLE	TYPE OF FILING	DESCRIPTION
<b>4703:1-1-01</b>	Definitions	Amendment	Edited the meaning of “good moral character” to be more narrowly construed and edited the definition of “direct supervision” to include remote supervision.
<b>4703:1-1-02</b>	Applications	Amendment	Amended application process to reflect the current online application. Also, in accordance with R.C. 9.78, added a provision for Board review of potential applicant’s criminal convictions to determine eligibility for registration;
<b>4703:1-1-06</b>	Continuing Education	Amendment	Edited for clarity, and for inclusion of RC 119 language.
<b>4703:1-1-07</b>	Military provisions related to licensure	NO CHANGE	
<b>4703:1-2-01</b>	Requirements for registration by examination	Amendment	Edited for grammar and to clarify that CLARB sets the instructions for the LARE
<b>4703:1-2-02</b>	Registration by reciprocity	No change	
<b>4703:1-3-04</b>	Code of Conduct	No change	
<b>4703:1-3-06</b>	Resident landscape architect required	No change	

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