

Michigan Department of Licensing and Regulatory Affairs  
**Office of Regulatory Reinvention**  
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**REGULATORY IMPACT STATEMENT  
and  
COST-BENEFIT ANALYSIS**

**PART 1: INTRODUCTION**

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

**ORR-assigned rule set number:**

2009-065 LR

**ORR rule set title:**

Architects – General Rules

**Department:**

Licensing and Regulatory Affairs

**Agency or Bureau/Division**

Bureau of Commercial Services

**Name and title of person completing this form; telephone number:**

Stephani Fleming  
Legislative Liaison  
517-373-9871

**Reviewed by Department Regulatory Affairs Officer:**

Liz Arasim  
Licensing and Regulatory Affairs

## **PART 2: APPLICABLE SECTIONS OF THE APA**

### **MCL 24.207a “Small business” defined.**

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

### **MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**MCL 24.245 (3)** “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

**MCL 24.245b Information to be posted on office of regulatory reinvention website.**

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
  - (b) Instructions on any existing administrative remedies or appeals available to the public.
  - (c) Instructions regarding the method of complying with the rules, if available.
  - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

### PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

#### Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no federal standards or requirements for architect continuing education. Architects are not licensed or regulated by the federal government, but instead, by each individual state. Each individual state establishes its own licensing requirements.

Public Act 324 of 2010 amended Article 20 of the Occupational Code (Code), PA 299 of 1980, to add the requirement for continuing education for license renewal. Section 2009(2) of the Code provides “[t]he department shall, by rule, establish a program of continuing education for all licensees under this article.” The rules are being amended to comply with this State of Michigan requirement.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

Many states provide reciprocity – meaning they will honor the licenses issued by another state - if the issuing state’s licensing requirements are substantially similar to their own. Almost all the states that border Michigan require some continuing education for architects in order to renew their licenses. By adding a requirement for continuing education, other states will recognize the licensure of architects licensed in Michigan.

Ohio requires at least 12 hours of “structured HSW [health, safety, and welfare] continuing education hours” per calendar year, or 24 per two year renewal period, to renew a license.

<http://arc.ohio.gov/ContinuingEducation.aspx>

Licensees in Illinois are required to complete 24 contact hours with at least 16 contact hours of public protection subjects which are relevant to safeguarding public health, safety and welfare, and acquired in structured educational activities.

<http://www.ilga.gov/commission/jcar/admincode/068/06801150001050R.html>

Licensees in New York shall complete a minimum of 36 hours of continuing education during each triennial registration period.

<http://www.op.nysed.gov/prof/arch/article147.htm#ce>

Licensees in Wisconsin shall complete at least 24 hours of continuing education, of which 16 contact hours shall be in HSW [health, safety, and welfare] topics pertinent to the practice of architecture, during each biennial registration period.

[https://docs.legis.wisconsin.gov/code/admin\\_code/a\\_e/12/3](https://docs.legis.wisconsin.gov/code/admin_code/a_e/12/3)

Licensed architects in Indiana must complete a minimum of 24 hours of continuing education during each (2) year licensure period to qualify for renewal.

<http://www.in.gov/pla/2672.htm>

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules do not duplicate, overlap, or conflict with any laws, rules, or other legal requirements.

#### **Purpose and Objectives of the Rule(s):**

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The proposed rules require individuals, who wish to renew their architect's license, to obtain 12 hours of continuing education per year or 24 hours of continuing education every 2 years. Architects are currently on a biennial licensure cycle. Currently, reciprocity with other states is an issue for architects licensed in Michigan. In order to receive reciprocity, Michigan needs to include completion of continuing education units in the criteria for license renewal. This change will allow these professionals to work for multi-state companies and to take jobs in neighboring states.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

Prior to the amendatory act that added the continuing education requirements, there was no mechanism to measure a licensee's competence in their occupation. Additionally, most other state's licensing laws, and reciprocity provisions, require a licensee to complete continuing education. If these rules are not promulgated, an architect who is licensed in Michigan will not be able to enjoy reciprocity with other states.

The proposed rules clarify the methods through which continuing education may be obtained for individual licensees in fulfilling the statutory continuing education requirements.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules clarify the methods through which continuing education may be obtained for individual licensees in fulfilling the statutory continuing education requirements.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

No rules are being rescinded.

#### **Fiscal Impact on the Agency:**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

The Bureau is responsible for the costs of rulemaking, including conducting a public hearing, publication of notices, draft rules, and final rules in the Michigan Register (at approximately \$225.00 per page). In

addition, the Bureau is responsible for placing public hearing notices in three newspapers of general circulation at an approximate cost of \$1,500.00 After promulgation, copies of the rules will be made available on the Bureau's website at cost for printing.

If a licensee attests that he/she met the continuing education requirements and the Bureau receives a complaint/evidence that this person did not meet the continuing education requirements, the Bureau would have the costs associated with the investigation and formal complaint process.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No agency appropriation has been made or other funding source provided for any expenditure associated with the proposed rules. The rules will not impose any additional costs on the agency. Mechanisms are currently in place for Bureau rulemaking, and the proposed rules do not require additional equipment, supplies, labor, or administrative resources.

### **Impact on Other State or Local Governmental Units:**

(10) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

There will be no change in revenue or cost to other state or local governments.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

No new programs, services, duties, or responsibilities will be imposed on cities, counties, towns, villages, or school districts by the proposed rule changes.

(12) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

No appropriation or funding source has been provided for any additional expenditure associated with the proposed rules.

### **Rural Impact:**

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

There will be no impact on rural areas resulting from the proposed rule changes.

### **Environmental Impact:**

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules do not have any impact on the environment.

### **Small Business Impact Statement:**

*[Please refer to the discussion of "small business" on page 2 of this form.]*

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules affect individual licensees and not small businesses.

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

There is no disproportionate impact on small businesses because the rules will affect individual licensees and not small businesses. All architects, who wish to renew their license, must comply with the continuing education requirements.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Unknown. There are currently 5,702 licensed architects in Michigan. The Bureau has no information on whether they work for a small business.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

There are no different compliance or reporting requirements for small businesses. All licensed architects must comply with the same requirements.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

There are no different compliance or reporting requirements for small businesses. All licensed architects must comply with the same requirements.

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

N/A

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

There will be no disproportionate impact on small businesses. The rules will affect individual licensees and not small businesses.

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

No report is required by the proposed rules.

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There will be no cost of compliance for small businesses. The rules affect individual licensees and not small businesses.

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

A small business would not incur any costs for legal, consulting, or accounting services with these proposed rules.

(21) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

The proposed rules would not adversely affect competition in the marketplace because the surrounding jurisdictions also require continuing education. See response to Question #2. Additionally, the continuing education requirements are similar to those required in other jurisdictions.

(22) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Small businesses are not exempt from complying with the proposed rules.

(23) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Small businesses are not exempt from complying with the proposed rules.

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

The board of architects assisted in drafting the proposed rules. The board is comprised of 9 voting members: 5 architects, 1 professional surveyor, 1 professional engineer, and 2 public members.

### **Cost-Benefit Analysis of Rules (independent of statutory impact):**

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There will be no compliance costs on businesses or groups. The rules affect individual licensees.

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

Article 20 of the Occupational Code has been amended to add the requirement for 24 hours of continuing education for architects. There are currently 5,702 architects licensed in Michigan.

To comply with the continuing education requirements, each licensee must complete 12 hours of continuing education per year or 24 hours of continuing education every 2 years. The cost of continuing education may range from \$15.00 to \$25.00 per credit hour, or a total of \$360.00 to \$600.00 every two years, depending on the provider the licensee chooses. <http://www.pdhone.org/cgi-bin/quiz/courses/courselist.cgi>, <http://www.redvector.com/default.aspx> and <http://www.ncarb.org/continuing-education.aspx>. Based on 5,702 individual licensees affected, the estimated statewide compliance cost for licensees would be approximately \$2,052,720.00 to \$3,421,200.00. The rules do not impose these costs. The rules provide alternative choices to meet the statutory requirement of continuing education and are intended to provide clarification of course topics relating to health, safety, and welfare relevant to the profession.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

The rules require the individual licensee to certify that he/she has completed the required continuing education. This lessens the regulatory burden by allowing the self-reporting of courses or activities by the individual licensee at the time of renewal. By using random audits and the complaint process to check compliance, fewer licensees will need to submit documentation to the department and the department will have less documentation to process.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules will provide a direct benefit to the public by ensuring individual licensees maintain at least the minimum continuing education requirements that relate to the public's health, safety, and welfare. Additionally, by requiring similar continuing education requirements as surrounding jurisdictions, it will make reciprocity easier for licensees.

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not impact business growth or job creation.

(30) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed rules will not have any disproportionate impact on small businesses regardless of their size or geographic location because the rules will clarify a continuing education requirement that licensees, and not small businesses, will have to complete. Furthermore, the rules will allow licensees to participate in distance learning programs and other alternative means of meeting the continuing education requirements. The costs may vary for compliance, depending on the individual licensee's choices.

(31) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The information relied on to complete this regulatory impact statement was obtained from numerous sources including current departmental data, continuing education provider's websites, and other jurisdictions websites. The addresses for the websites can be found in the responses to Questions #2 and #26.

### **Alternatives to Regulation:**

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

No reasonable alternative to the proposed rule exists.

(33) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Architects are regulated by the State Of Michigan. Government regulation of the occupation ensures consistency and unbiased treatment.

(34) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There are no reasonable alternatives to assure that the minimum standards of continuing education required by statute are met. The perceived lack of voluntary compliance by licensees and the fact that Michigan is incompatible with most other state's licensing requirements has prevented licensees from working in nearby states by reciprocity. This inevitably led to the addition of the continuing education requirement and rulemaking authority in Article 20 of the Occupational Code.

### **Additional Information**

(33) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Pursuant to rule R 338.15501(2) a licensee shall certify the completion of continuing education requirements as a condition for licensure renewal in a format prescribed by the department.
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**PART 4: REVIEW BY THE ORR**

**Date Regulatory Impact Statement (RIS) received:**

11-30-2012
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<b>Date RIS approved:</b>	<b>12-27-2012</b>
<b>ORR assigned rule set number:</b>	<b>2009-065 LR</b>

<b>Date of disapproval:</b>	Explain:
<b>More information needed:</b>	Explain:

(ORR-RIS October 2012)