

# **HOUSE . . . . . No. 4399**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, June 13, 2016.

The committee on Ways and Means, to whom was referred the Bill to regulate appraisal management companies (House, No. 947), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4399).

For the committee,

BRIAN S. DEMPSEY.

**The Commonwealth of Massachusetts**

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**In the One Hundred and Eighty-Ninth General Court  
(2015-2016)**  
\_\_\_\_\_

An Act to regulate appraisal management companies.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section  
2   92, as appearing in the 2014 Official Edition, and inserting in place thereof the following  
3   section:-

4           Section 92. (a) There is hereby established a board of real estate appraisers which shall  
5   consist of 9 members to be appointed by the governor: 1 of whom shall be a licensed real estate  
6   broker; 1 of whom shall be a member of the general public, in accordance with the provisions of  
7   section 9B; 1 of whom shall be a member of the banking industry; 1 of whom shall represent an  
8   appraisal management company; and 5 of whom shall be real estate appraisers. Each real estate  
9   appraiser who is a member of the board shall be licensed or certified pursuant to sections 173 to  
10   195, inclusive, of chapter 112.

11           (b) The term of each appointed member shall be 3 years. Upon expiration of their terms,  
12   members of the board shall continue to hold office until the appointment and qualification of  
13   their successors. No person shall serve as a member of the board for more than 2 consecutive  
14   terms. The governor may remove a member for cause.

15 (c) Each member of the board shall be paid for expenses actually incurred in the  
16 performance of official duties.

17 (d) The board shall annually elect a chairperson from among its members. The director of  
18 the department of professional licensure, with approval of the board, shall appoint an executive  
19 secretary to serve the board. The department of professional licensure shall employ such other  
20 clerical and technical assistants as may be necessary to discharge the official duties of the board.

21 (e) The board shall hold at least 6 meetings each year and may hold special meetings as  
22 required at a time and place determined by the board.

23 SECTION 2. Chapter 112 of the General Laws is hereby amended by inserting after  
24 section 263 the following 14 sections:-

25 Section 264. The following terms as used in sections 264 to 277, inclusive, shall have the  
26 following meanings, unless the context clearly requires otherwise:

27 “Analysis”, a study of real estate or real property other than estimating value.

28 “Applicant”, a person who applies to be registered as an appraisal management company  
29 in the commonwealth.

30 “Appraisal” or “real estate appraisal”, written analysis, opinion or conclusion prepared by  
31 a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or  
32 aspects of, identified real estate; provided, that an “appraisal” may be classified as a valuation or  
33 an analysis, or both.

34 “Appraisal assignment”, an engagement for which an appraiser is employed or retained to  
35 act, or would be perceived by a third party or the public as acting, as a disinterested third party in

36 rendering an unbiased analysis, opinion or conclusion relating to the value, nature, quality or  
37 utility of specified interests in, or aspects of, identified real estate.

38 “Appraisal management company”, an entity that: (i) provides appraisal management  
39 services to creditors or to secondary mortgage market participants, including affiliates;

40 (ii) provides such services in connection with valuing a consumer's principal dwelling as  
41 security for a consumer credit transaction or incorporating such transactions into securitizations;  
42 and (iii) within a given 12-month period, oversees an appraiser panel of more than 15 certified or  
43 licensed appraisers in the commonwealth or 25 or more certified or licensed appraisers in two or  
44 more states; provided further, that an AMC does not include a department or division of an entity  
45 that provides appraisal management services to only that entity.

46 “Appraisal management services”, shall mean 1 or more of the following: (i) recruiting,  
47 selecting, and retaining appraisers; (ii) contracting with certified or licensed appraisers to  
48 perform appraisal assignments; (iii) managing the process of having an appraisal performed,  
49 including providing administrative services such as receiving appraisal orders and appraisal  
50 reports, submitting completed appraisal reports to creditors and secondary market participants,  
51 collecting fees from creditors and secondary market participants for services provided, and  
52 paying appraisers for services performed; and (iv) reviewing and verifying the work of  
53 appraisers.

54 “Appraisal practice”, valuation services performed by an individual acting as an  
55 appraiser, including, but not limited to, appraisal, appraisal review or appraisal consulting.

56 “Appraisal report”, a written report of an appraisal.

57 “Appraisal review”, the act or process of developing and communicating an opinion  
58 about the quality of another appraiser’s work that was performed as part of an appraisal  
59 assignment related to the appraiser’s data collection, analysis, opinions, conclusions, opinion of  
60 value or compliance with the Uniform Standards of Professional Appraisal Practice; provided  
61 however, that “appraisal review” shall not include: (i) a general examination for grammatical,  
62 typographical or similar errors or (ii) a general examination for completeness including  
63 regulatory or client requirements as specified in an agreement that does not communicate an  
64 opinion of value.

65 “Appraisal services”, the services required to perform an appraisal, including defining the  
66 scope of work, inspecting the property, reviewing necessary and appropriate public and private  
67 data sources including, but not limited to, multiple listing services, tax assessment records and  
68 public land records, developing and rendering an opinion of value and preparing and submitting  
69 the appraisal report.

70 “Appraiser” or “real estate appraiser”, a person who develops and communicates real  
71 estate appraisals and who holds a current, valid certificate as a state-certified general real estate  
72 appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser  
73 pursuant to section 178. An appraiser shall be exempt from section 148B of chapter 149,

74 “Appraiser panel”, a network, list, or roster of licensed or certified appraisers approved  
75 by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an  
76 AMC’s “appraiser panel” include both appraisers accepted by the AMC for consideration for  
77 future appraisal assignments in covered transactions or for secondary mortgage market  
78 participants in connection with covered transactions and appraisers engaged by the AMC to

79 perform one or more appraisals in covered transactions or for secondary mortgage market  
80 participants in connection with covered transactions. An appraiser is an independent contractor if  
81 the appraiser is treated as an independent contractor by the MAC for the purpose of Federal  
82 income taxation.

83 “Board”, the board of registration of real estate appraisers established by section 92 of  
84 chapter 13.

85 “Controlling person”, (1) an officer or director of an appraisal management company or  
86 an individual who holds a 10 per cent or greater ownership interest in an appraisal management  
87 company; (2) an individual employed, appointed or authorized by an appraisal management  
88 company who has the authority to enter into a contractual relationship with clients for the  
89 performance of appraisal services and who has the authority to enter into agreements with  
90 independent appraisers for the completion of appraisals; or (3) an individual who possesses the  
91 power to direct or cause the direction of the management or policies or procedures of an  
92 appraisal management company.

93 “Covered transaction”, an extension of consumer credit that is or will be secured by the  
94 consumer's principal dwelling.

95 “Dwelling”, a residential structure that contains 1 to 4 units, whether or not that structure  
96 is attached to real property, an individual condominium unit, cooperative unit, mobile home or  
97 trailer, if it is used as the consumer's principal residence.

98 “Employee in charge”, a designated employee of the appraisal management company,  
99 who continually holds a valid license issued by an appraiser licensing authority as a certified  
100 appraiser, with the responsibilities and obligations to the board as set forth in section 269.

101 “Person”, an individual, sole proprietorship, partnership, limited liability company,  
102 limited partnership, corporation, association or other group engaged in joint business activities,  
103 however organized.

104 “Real estate”, an identified parcel or tract of land including improvements, if any.

105 “Real property”, 1 or more defined interests, benefits and rights inherent in the ownership  
106 of real estate.

107 “Registrant”, a real estate appraisal management company registered pursuant to sections  
108 264 to 277, inclusive.

109 “Uniform Standards of Professional Appraisal Practice” or “USPAP” – the entire uniform  
110 appraisal standards document titled Uniform Standards of Professional Appraisal Practice  
111 (USPAP).

112 “Valuation”, an estimate of the value of real estate or real property.

113 “Valuation Services”, services pertaining to all aspects of property value.

114 Section 265. (a) It shall be unlawful for a person to directly or indirectly engage, or  
115 attempt to engage, in business as an appraisal management company, to directly or indirectly  
116 engage or attempt to perform appraisal management services or to advertise or hold itself out as  
117 engaging in or conducting business as an appraisal management company without first being  
118 registered by the board under the provisions of sections 264 to 277, regardless of the person’s  
119 use of the term “appraisal management company”, “mortgage technology company”, or any  
120 other name.

121 (b) The provisions of sections 264 to 277 shall not apply to:

- 122 (i) An agency of the federal government or any state or municipal government;
- 123 (ii) An appraisal management company that is owned and controlled by an insured  
124 depository institution, as defined in 12 U.S.C. 1813 and regulated by the Office of the  
125 Comptroller of the Currency, the Board of Governors in the Federal Reserve System, or the  
126 Federal Deposit Insurance Corporation; or
- 127 (iii) A licensed real estate broker or salesperson performing activities in  
128 accordance with section 174B; provided, however, that an exempt person does not include a real  
129 estate broker who receives compensation of any kind in connection with the referral or  
130 placement of an appraisal assignment.

131 (c) An appraiser may not perform appraisal services for real property located in the  
132 commonwealth for an appraisal management company that is not registered under sections 264  
133 to 277 unless exempt from licensing as provided for in this section. An appraiser, who relies  
134 upon the written assurance of the appraisal management company regarding its registration  
135 status, shall not be subject to disciplinary action by the Board.

136 Section 266. The board shall have the authority to adopt rules and regulations that are  
137 reasonable and necessary to: (i) implement, administer, and enforce the provisions of sections  
138 264 to 277 and (ii) comply with federal rules or regulations promulgated pursuant to section  
139 1124 of the Federal Financial Reform, Recovery and Enforcement Act of 1989. The board shall  
140 adopt rules and regulations in accordance with federal regulations promulgated pursuant to  
141 section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for  
142 the purpose of determining whether an appraiser is deemed part of an AMC's appraiser panel  
143 within a 12-month period.

144           Section 267. (a) A person desiring to be registered as an appraisal management company  
145 in the commonwealth shall make written application to the board on forms prescribed by the  
146 board setting forth the applicant's qualifications for registration. The application shall be  
147 accompanied by the applicable fee as determined annually by the secretary of administration and  
148 finance pursuant to section 3B of chapter 7 and any other information the board deems necessary  
149 pursuant to rules and regulations adopted by the board. Upon receipt of a completed application  
150 and set fee the board shall determine that each person who owns more than 10% of an applicant  
151 appraisal management company is of good moral character. The board shall then issue to the  
152 applicant a certificate of registration authorizing the applicant to act as a real estate appraisal  
153 management company in the commonwealth.

154           (b) An application for registration shall include the following certifications from the  
155 applicant:

156           (i) A certification that the applicant has a system and process in place to verify that a  
157 person being added to the appraiser panel of the appraisal management company for appraisal  
158 assignments on real property located in the commonwealth holds a license or certification in  
159 good standing in the commonwealth issued pursuant to this chapter;

160           (ii) A certification that the applicant has a system in place to review the work of all real  
161 estate appraisers that are performing real estate appraisal services for the appraisal management  
162 company on a periodic basis to confirm that the real estate appraisal services are being conducted  
163 in accordance with the Uniform Standards of Professional Appraisal Practice; and

164           (iii) A certification that the applicant maintains a detailed record of each service request  
165 that it receives, the name of the appraiser that performs the residential real estate appraisal

166 services for the appraisal management company and a complete digital copy of every version of  
167 the appraisal report completed by the appraiser.

168 (c) A person who, directly or indirectly owns more than 10 per cent of an applicant for  
169 registration, or any officer, controlling person, employee in charge or managing principal of an  
170 applicant for registration, shall at a minimum, furnish to the Board information concerning the  
171 person's identity, including fingerprints for submission to the Federal Bureau of Investigation,  
172 and any governmental agency or entity authorized to receive such information for a state,  
173 national and international criminal history background check. A person who, directly or  
174 indirectly owns more than 10 per cent of an applicant for registration, or any officer, controlling  
175 person, employee in charge or managing principal of an applicant for registration, who has had a  
176 license or certificate to act as an appraiser or to engage in any activity related to the transfer of  
177 real property refused, denied, canceled or revoked in the commonwealth or in any other state,  
178 whether on a temporary or permanent basis or, who is not of good moral character as determined  
179 by the board, shall not be eligible for registration.

180 (d) Each applicant for registration shall submit the name and address of the applicant's  
181 registered agent located in the commonwealth.

182 (e) A registrant having a good faith belief that a real estate appraiser licensed in the  
183 commonwealth has violated applicable law or materially violated the Uniform Standards of  
184 Professional Appraisal Practice or engaged in unethical conduct shall, within 45 days of  
185 identifying such violation, file a complaint with the board.

186 Section 268. An appraisal management company applying to the board for registration in  
187 the commonwealth shall designate 1 controlling person that shall be the main contact for all

188 communication between the board and the appraisal management company. The controlling  
189 person may also be designated the employee in charge.

190 Section 269. In order to serve as the employee in charge for a registered appraisal  
191 management company, a designee shall, in addition to continually holding a valid license issued  
192 by a state appraiser licensing authority as a state certified appraiser:

193 (1) not had a license to practice as an appraiser or to engage in any activity related to the  
194 transfer of real property refused, denied, canceled or revoked in the commonwealth or in any  
195 other state;

196 (2) be of good moral character;

197 (3) submit to a background investigation; and

198 (4) shall be responsible for:

199 (i) management of the process of selecting appraisers for the  
200 performance of real estate appraisal services;

201 (ii) management of the process of conducting appraisal reviews. An  
202 employee of an appraisal management company or a contractor working on behalf of such  
203 company who has any involvement in the performance of an appraisal review of completed  
204 appraisals of real property located in the commonwealth shall be licensed or certified in the  
205 commonwealth and in good standing pursuant to the provisions of sections 264 to 277; and.

206 (iii) maintaining required documentation as part of the board file.

207           Section 270. An appraisal management company shall file a form, signed by the  
208 designated controlling person or employee in charge, with the board indicating the appraisal  
209 management company's designation of controlling person and employee in charge and the  
210 individual's acceptance of the responsibility. The board will establish a process, including  
211 appropriate timing, for administering any change in controlling person or employee in charge.  
212 An appraisal management company that does not comply with this section shall have the  
213 appraisal management company's registration suspended pursuant to section 274 until the  
214 appraisal management company complies with this section. An individual operating an appraisal  
215 management company as a sole proprietorship shall be a certified general or certified residential  
216 appraiser and shall be considered the controlling person for purposes of sections 264 to  
217 277 unless another controlling person is designated.

218           Section 271. The following fees shall be determined annually by the secretary of  
219 administration and finance under the provision of section 3B of chapter 7 and shall be collected  
220 by the board: (a) application fee; (b) initial registration fee; (c) annual renewal fee; (d) change in  
221 controlling person or employee in charge fee; and (e) late renewal fee.

222           Section 272. In addition to the filing fee, each applicant for registration shall post with  
223 the board and maintain a surety bond in an amount designated by the board. The bond shall: (i)  
224 be in the form prescribed by the board; and (ii) accrue to the commonwealth for the benefit of a  
225 claimant against the registrant to secure the faithful performance of the registrant's obligations  
226 pursuant to sections 264 to 277, inclusive.

227           The aggregate liability of the surety shall not exceed the principal sum of the bond. A  
228 party having a claim against the registrant may bring suit directly on the surety bond, or the

229 board may bring suit on behalf of the party having a claim against the registrant. A deposit of  
230 cash or security may be accepted in lieu of the surety bond. A claim reducing the face amount of  
231 the bond shall be annually restored upon renewal of the registrant's registration.

232 Section 273. (a) No employee, director, officer, managing principal or agent of an  
233 appraisal management company or any other third party acting as joint venture partner or  
234 independent contractor shall influence or attempt to influence the development, reporting, result,  
235 or review of a real estate appraisal through coercion, extortion, collusion, compensation,  
236 inducement, intimidation, bribery, or in any other manner, including:

237 (i) withholding or threatening to withhold timely payment for a real estate appraisal  
238 report except in cases of breach of contract or substandard performance of services;

239 (ii) withholding or threatening to withhold future business from a real estate appraiser or  
240 demoting or terminating or threatening to demote or terminate a real estate appraiser;

241 (iii) expressly or impliedly promising future business, appraisal services, promotions, or  
242 increased compensation for a real estate appraiser;

243 (iv) conditioning the ordering of a real estate appraisal report or the payment of a real  
244 estate appraisal fee, salary, or bonus on the opinion, conclusion, or valuation to be reached or on  
245 a preliminary estimate requested from a real estate appraiser;

246 (v) requesting that a real estate appraiser provide an estimated, predetermined, or desired  
247 valuation in a real estate appraisal report or provide estimated values or comparable sales at any  
248 time before the appraiser's completion of the appraisal report;

249 (vi) providing to a real estate appraiser an anticipated, estimated, encouraged, or desired  
250 value for a subject property or a proposed or targeted amount to be loaned to the borrower;  
251 provided, however, a real estate appraiser should be provided with a copy of the sales contract  
252 for purchase transactions, if available;

253 (vii) providing to a real estate appraiser, or any entity or person related to the appraiser,  
254 stock or other financial or non-financial benefits;

255 (viii) allowing the removal of a real estate appraiser from a list of qualified appraisers  
256 used the registrant without prior written notice stating the reason for removal to the appraiser.  
257 The notice shall include written evidence if the appraiser is removed from the list for illegal  
258 conduct, substandard performance, or otherwise improper or unprofessional behavior or any  
259 violation of the Uniform Standards of Professional Appraisal Practice or licensing standards of  
260 the commonwealth;

261 (xi) any other act or practice that impairs or attempts to impair a real estate appraiser's  
262 independence, objectivity, or impartiality; or

263 (x) requesting or requiring a real estate appraiser to collect a fee from, or be compensated  
264 by, the borrower, homeowner, real estate agent, mortgage broker or any other third party in the  
265 provision of real estate appraisal services.

266 (b) No employee, director, officer, managing principal or agent of an appraisal  
267 management company or any other third party acting as joint venture partner or independent  
268 contractor shall:

269 (i) alter, modify, or otherwise change a completed appraisal report submitted by a real  
270 estate appraiser without the appraiser's written knowledge and consent;

271 (ii) alter, modify, or otherwise change a completed appraisal report submitted by a real  
272 estate appraiser and shall, in all cases, transmit a "true and exact copy" to the client and any  
273 intended users;

274 (iii) use an appraisal report submitted by an appraiser for any other transaction;

275 (iv) require an appraiser to sign any indemnification agreement that would require the  
276 appraiser to defend and hold harmless the appraisal management company or any of its agents,  
277 employees, or independent contractors for any liability, damage, losses, or claims arising out of  
278 the services performed by the appraisal management company or its agents, employees, or  
279 independent contractors and not the services performed by the appraiser. Any indemnity clause  
280 not in conformance with this section, in effect as of the date of this Act, shall be null and void;

281 (v) require an appraiser to provide the company with the appraiser's digital signature or  
282 seal;

283 (vi) prohibit an appraiser from recording the fee the real estate appraiser was paid for the  
284 performance of an appraisal assignment within the body of the appraisal report;

285 (vii) require an appraiser to accept an appraisal assignment if the appraiser, in the  
286 appraiser's own independent professional judgment believes, (i) the appraiser does not have the  
287 necessary expertise for the assignment or knowledge of the geographic area; or (ii) that the time  
288 frame does not allow the appraiser the ability to meet all of the appraiser's relevant legal or

289 professional obligations, and the appraiser has communicated such belief to the appraisal  
290 management company; and

291 (viii) knowingly fail to compensate appraisers at a rate that is customary and reasonable  
292 for appraisal services in the market area of the property being appraised, consistent with section  
293 129E of the Truth in Lending Act and regulations promulgated thereunder.

294 (c) Nothing in this section shall be construed as prohibiting an appraisal management  
295 company from requesting that an appraiser:

296 (i) consider additional appropriate material property information;

297 (ii) provide further detail, substantiation, or explanation for the real estate appraiser's  
298 value conclusion; or

299 (iii) correct errors in the real estate appraisal report.

300 (d) An appraisal management company shall not refuse to assign requests or orders for  
301 appraisals or reduce the number of assignments or otherwise penalize an appraiser who does not  
302 accept an assignment or order in accordance with clause (7) of subsection (b), except that  
303 nothing in this section shall require an appraisal management company to offer future appraisal  
304 assignments of a particular nature or type to an appraiser who previously indicated a lack of the  
305 necessary expertise or geographic knowledge for such assignments, except in the case where the  
306 appraiser subsequently demonstrates, to the satisfaction of the appraisal management company,  
307 that the appraiser has gained the required experience or geographic knowledge to competently  
308 complete the assignments.

309           Section 274. (a) The board may, by order, deny, suspend, revoke, or refuse to issue or  
310 renew a registration of an appraisal management company or may restrict or limit activities of a  
311 person who owns an interest in or participates in the business of an appraisal management  
312 company if the board determines that an applicant, registrant, or any partner, member, manager,  
313 officer, director, managing principal, or person occupying a similar status, performing similar  
314 functions, or directly or indirectly controlling the applicant or registrant has done any of the  
315 following:

316           (i) filed an application for registration that, as of its effective date or as of any date after  
317 filing, contained any statement that, in light of the circumstances under which it was made, is  
318 false or misleading with respect to any material fact;

319           (ii) violated or failed to comply with any provision of sections 264 to 277 or any rules  
320 and regulations adopted by the board;

321           (iii) been convicted of any felony or, within the past 5 years, been convicted of any  
322 misdemeanor involving any activity related to the transfer of real property, including, but not  
323 limited to, mortgage lending or real estate appraisal or any offense involving breach of trust,  
324 moral turpitude, or fraudulent or dishonest dealing;

325           (iv) been permanently or temporarily enjoined by any court of competent jurisdiction  
326 from engaging in or continuing any conduct or practice involving any aspect of the real estate  
327 appraisal management business;

328           (v) been the subject of an order of the board or any other state appraiser regulatory  
329 agency denying, suspending, or revoking the person's license as a real estate appraiser;

330 (vi) acted as an appraisal management company while not properly registered by the  
331 board;

332 (vii) structured an appraisal assignment or a contract with an appraiser for the purpose of  
333 evading the provisions of sections 264 to 277t; or

334 (viii) failed to pay the proper filing or renewal fee under sections 264 to 277.

335 (b) The board may, by order, impose a civil penalty upon a registrant or any partner,  
336 officer, director, managing principal, or other person occupying a similar status or performing  
337 similar functions on behalf of a registrant for any violation of sections 264 to 277. The civil  
338 penalty shall not exceed \$10,000 for each violation.

339 (c) In addition to other powers under sections 264 to 277, upon finding that any action of  
340 a person is in violation of sections 264 to 277, the board may order the person to cease from the  
341 prohibited action. If the person subject to the order fails to appeal the order of the board or the  
342 person appeals the order and the appeal is denied or dismissed and the person continues to  
343 engage in the prohibited action in violation of the board's order, the person shall be subject to a  
344 civil penalty of not more than \$25,000 for each violation of the order. The penalty provision of  
345 this section shall be in addition to and not in lieu of any other provision of law applicable to a  
346 registrant for the registrant's failure to comply with an order of the board.

347 (d) Unless otherwise provided, all actions and hearings under sections 264 to 277 shall be  
348 governed by chapter 30A.

349 (e) If the board has reasonable grounds to believe that an appraisal management company  
350 has violated the provisions of sections 264 to 277 or that facts exist that would be the basis for an

351 order against an appraisal management company, the board may at any time, either personally or  
352 by a person duly designated by the board, investigate or examine the books, accounts, records,  
353 and files of any registrant or other person relating to the complaint or matter under investigation.

354 (f) The board shall have the power to issue subpoenas requiring the attendance of persons  
355 and the production of papers and records before the board in any hearing, investigation, inquiry,  
356 or other proceeding conducted by the board. Upon the production of any papers, records, or  
357 documents, the board shall have the power to authorize true copies of the papers, records, or  
358 documents to be substituted in the permanent record of the matter in which the papers, records,  
359 or documents shall have been introduced in evidence.

360 Section 275. Every registered appraisal management company shall maintain the records  
361 related to services provided by the appraisal management company as prescribed in regulations  
362 adopted by the board. All records shall be preserved in accordance with the Record Keeping  
363 Rule of USPAP unless the board, by regulation, prescribes otherwise for particular types of  
364 records.

365 Section 276. The board may appear in its own name in superior court in actions for  
366 injunctive relief to prevent any person from violating the provisions of sections 264 to 277 or  
367 regulations adopted by the board. The superior court shall have the power to grant these  
368 injunctions whether criminal prosecution has been or may be instituted as a result of the  
369 violations or whether the person is the holder of a registration issued by the board under sections  
370 264 to 277.

371 Section 277. (a) The board shall have the authority to conduct investigations and  
372 examinations for:

373 (i) purposes of initial registration, registration renewal, registration suspension,  
374 registration conditioning, registration revocation or termination, or general or specific inquiry or  
375 investigation to determine compliance with this chapter. The board shall have the authority to  
376 access, receive and use any books, accounts, records, files, documents, information or evidence  
377 including, but not limited to: (i) criminal, civil and administrative history information, including  
378 non-conviction data as specified in applicable provisions of the General Laws; and (ii) any other  
379 documents, information or evidence the board deems relevant to the inquiry or investigation  
380 regardless of the location, possession, control or custody of such documents, information or  
381 evidence; and

382 (ii) the purposes of investigating violations or complaints arising under this chapter, or  
383 for the purposes of examination, the board may review, investigate, or examine any registrant,  
384 individual or person subject to this chapter, in order to carry out the purposes of this chapter.

385 (b) If an applicant, registrant or managing principal's criminal history record check  
386 reveals 1 or more convictions, the conviction shall not automatically bar registration, provided  
387 the conviction is not related to the financing or transfer of real property. The board shall consider  
388 all of the following factors regarding the conviction:

389 (i) the level of seriousness of the crime;

390 (ii) the date of the crime;

391 (iii) the age of the person at the time of the conviction;

392 (iv) the circumstances surrounding the commission of the crime, if known;

393 (v) the nexus between the criminal conduct of the person and the job duties of the  
394 position to be filled; and

395 (vi) the person's prison, jail, probation, parole, rehabilitation, and employment records  
396 since the date the crime was committed.

397 SECTION 3. This act shall take effect 180 days after its passage.