

# **HOUSE . . . . . No. 4331**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, March 26, 2018.

The committee on Financial Services to whom was referred the joint petition (accompanied by bill, House, No. 577) of John W. Scibak and others for legislation to regulate real estate appraisal management companies, reports recommending that the accompanying bill (House, No. 4331) ought to pass.

For the committee,

AARON MICHLEWITZ.

**HOUSE . . . . . No. 4331**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act regulating 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           Be it enacted by the Senate and House of Representatives in General Court assembled,  
2 and by the authority of the same, as follows:

3           SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section  
4 92, as appearing in the 2014 Official Edition, and inserting in place thereof the following  
5 section:-

6           Section 92. (a) There is hereby established a board of real estate appraisers which shall  
7 consist of 9 members to be appointed by the governor: 1 of whom shall be a licensed real estate  
8 broker; 1 of whom shall be a member of the general public, in accordance with the provisions of  
9 section 9B; 1 of whom shall be a member of the banking industry; 1 of whom shall represent an  
10 appraisal management company; and 5 of whom shall be real estate appraisers. Each real estate  
11 appraiser who is a member of the board shall be licensed or certified pursuant to sections 173 to  
12 195, inclusive, of chapter 112.

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

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

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

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

25 SECTION 2. Chapter 112 of the General Laws is hereby amended by inserting after  
26 section 265 the following 14 sections:-

27 Section 266. The following terms as used in sections 266 to 279, inclusive, shall have the  
28 following meanings, unless the context clearly requires otherwise:

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

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

32 “Appraisal” or “real estate appraisal”, written analysis, opinion or conclusion prepared by  
33 a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or

34 aspects of, identified real estate; provided, that an “appraisal” may be classified as a valuation or  
35 an analysis, or both.

36 “Appraisal assignment”, an engagement for which an appraiser is employed or retained to  
37 act, or would be perceived by a third party or the public as acting, as a disinterested third party in  
38 rendering an unbiased analysis, opinion or conclusion relating to the value, nature, quality or  
39 utility of specified interests in, or aspects of, identified real estate.

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

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

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

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

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

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

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

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

76 “Appraiser panel”, a network, list, or roster of licensed or certified appraisers approved  
77 by an AMC to perform appraisals as independent contractors for the AMC. Appraisers on an

78 AMC's "appraiser panel" include both appraisers accepted by the AMC for consideration for  
79 future appraisal assignments in covered transactions or for secondary mortgage market  
80 participants in connection with covered transactions and appraisers engaged by the AMC to  
81 perform one or more appraisals in covered transactions or for secondary mortgage market  
82 participants in connection with covered transactions. An appraiser is an independent contractor if  
83 the appraiser is treated as an independent contractor by the AMC for the purpose of Federal  
84 income taxation.

85 "Board", the board of registration of real estate appraisers established by section 92 of  
86 chapter 13.

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

95 "Covered transaction", an extension of consumer credit that is or will be secured by the  
96 consumer's principal dwelling.

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

100           “Employee in charge”, a designated employee of the appraisal management company,  
101 who continually holds a valid license issued by an appraiser licensing authority as a certified  
102 appraiser, with the responsibilities and obligations to the board as set forth in section 271.

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

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

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

109           “Registrant”, a real estate appraisal management company registered pursuant to sections  
110 266 to 279, inclusive.

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

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

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

116           Section 267. (a) It shall be unlawful for a person to directly or indirectly engage, or  
117 attempt to engage, in business as an appraisal management company, to directly or indirectly  
118 engage or attempt to perform appraisal management services or to advertise or hold itself out as  
119 engaging in or conducting business as an appraisal management company without first being  
120 registered by the board under the provisions of sections 266 to 279, regardless of the person’s

121 use of the term “appraisal management company”, “mortgage technology company”, or any  
122 other name.

123 (b) The provisions of sections 266 to 279 shall not apply to:

124 (i) An agency of the federal government or any state or municipal government;

125 (ii) An appraisal management company that is owned and controlled by an insured  
126 depository institution, as defined in 12 U.S.C. 1813 and regulated by the Office of the  
127 Comptroller of the Currency, the Board of Governors in the Federal Reserve System, or the  
128 Federal Deposit Insurance Corporation; or

129 (iii) A licensed real estate broker or salesperson performing activities in  
130 accordance with section 174B; provided, however, that an exempt person does not include a real  
131 estate broker who receives compensation of any kind in connection with the referral or  
132 placement of an appraisal assignment.

133 (c) An appraiser may not perform appraisal services for real property located in the  
134 commonwealth for an appraisal management company that is not registered under sections 266  
135 to 279 unless exempt from licensing as provided for in this section. An appraiser, who relies  
136 upon the written assurance of the appraisal management company regarding its registration  
137 status, shall not be subject to disciplinary action by the Board.

138 Section 268. The board shall have the authority to adopt rules and regulations that are  
139 reasonable and necessary to: (i) implement, administer, and enforce the provisions of sections  
140 266 to 279 and (ii) comply with federal rules or regulations promulgated pursuant to section  
141 1124 of the Federal Financial Reform, Recovery and Enforcement Act of 1989. The board shall



142 adopt rules and regulations in accordance with federal regulations promulgated pursuant to  
143 section 1124 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for  
144 the purpose of determining whether an appraiser is deemed part of an AMC's appraiser panel  
145 within a 12-month period.

146           Section 269. (a) A person desiring to be registered as an appraisal management company  
147 in the commonwealth shall make written application to the board on forms prescribed by the  
148 board setting forth the applicant's qualifications for registration. The application shall be  
149 accompanied by the applicable fee as determined annually by the secretary of administration and  
150 finance pursuant to section 3B of chapter 7 and any other information the board deems necessary  
151 pursuant to rules and regulations adopted by the board. Upon receipt of a completed application  
152 and set fee the board shall determine that each person who owns more than 10% of an applicant  
153 appraisal management company is of good moral character. The board shall then issue to the  
154 applicant a certificate of registration authorizing the applicant to act as a real estate appraisal  
155 management company in the commonwealth.

156           (b) An application for registration shall include the following certifications from the  
157 applicant:

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

162           (ii) A certification that the applicant has a system in place to review the work of all real  
163 estate appraisers that are performing real estate appraisal services for the appraisal management

164 company on a periodic basis to confirm that the real estate appraisal services are being conducted  
165 in accordance with the Uniform Standards of Professional Appraisal Practice; and

166 (iii) A certification that the applicant maintains a detailed record of each service request  
167 that it receives, the name of the appraiser that performs the residential real estate appraisal  
168 services for the appraisal management company and a complete digital copy of every version of  
169 the appraisal report completed by the appraiser.

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

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

184 (e) A registrant having a good faith belief that a real estate appraiser licensed in the  
185 commonwealth has violated applicable law or materially violated the Uniform Standards of

186 Professional Appraisal Practice or engaged in unethical conduct shall, within 45 days of  
187 identifying such violation, file a complaint with the board.

188 Section 270. An appraisal management company applying to the board for registration in  
189 the commonwealth shall designate 1 controlling person that shall be the main contact for all  
190 communication between the board and the appraisal management company. The controlling  
191 person may also be designated the employee in charge.

192 Section 271. In order to serve as the employee in charge for a registered appraisal  
193 management company, a designee shall, in addition to continually holding a valid license issued  
194 by a state appraiser licensing authority as a state certified appraiser:

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

198 (2) be of good moral character;

199 (3) submit to a background investigation; and

200 (4) shall be responsible for:

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

203 (ii) management of the process of conducting appraisal reviews. An  
204 employee of an appraisal management company or a contractor working on behalf of such  
205 company who has any involvement in the performance of an appraisal review of completed

206 appraisals of real property located in the commonwealth shall be licensed or certified in the  
207 commonwealth and in good standing pursuant to the provisions of sections 266 to 279; and.

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

209 Section 272. An appraisal management company shall file a form, signed by the  
210 designated controlling person or employee in charge, with the board indicating the appraisal  
211 management company's designation of controlling person and employee in charge and the  
212 individual's acceptance of the responsibility. The board will establish a process, including  
213 appropriate timing, for administering any change in controlling person or employee in charge.  
214 An appraisal management company that does not comply with this section shall have the  
215 appraisal management company's registration suspended pursuant to section 276 until the  
216 appraisal management company complies with this section. An individual operating an appraisal  
217 management company as a sole proprietorship shall be a certified general or certified residential  
218 appraiser and shall be considered the controlling person for purposes of sections 266 to  
219 279 unless another controlling person is designated.

220 Section 273. The following fees shall be determined annually by the secretary of  
221 administration and finance under the provision of section 3B of chapter 7 and shall be collected  
222 by the board: (a) application fee; (b) initial registration fee; (c) annual renewal fee; (d) change in  
223 controlling person or employee in charge fee; and (e) late renewal fee.

224 Section 274. In addition to the filing fee, each applicant for registration shall post with  
225 the board and maintain a surety bond in an amount designated by the board. The bond shall: (i)  
226 be in the form prescribed by the board; and (ii) accrue to the commonwealth for the benefit of a

227 claimant against the registrant to secure the faithful performance of the registrant's obligations  
228 pursuant to sections 266 to 279, inclusive.

229         The aggregate liability of the surety shall not exceed the principal sum of the bond. A  
230 party having a claim against the registrant may bring suit directly on the surety bond, or the  
231 board may bring suit on behalf of the party having a claim against the registrant. A deposit of  
232 cash or security may be accepted in lieu of the surety bond. A claim reducing the face amount of  
233 the bond shall be annually restored upon renewal of the registrant's registration.

234         Section 275. (a) No employee, director, officer, managing principal or agent of an  
235 appraisal management company or any other third party acting as joint venture partner or  
236 independent contractor shall influence or attempt to influence the development, reporting, result,  
237 or review of a real estate appraisal through coercion, extortion, collusion, compensation,  
238 inducement, intimidation, bribery, or in any other manner, including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

287 (vii) require an appraiser to accept an appraisal assignment if the appraiser, in the  
288 appraiser's own independent professional judgment believes, (i) the appraiser does not have the

289 necessary expertise for the assignment or knowledge of the geographic area; or (ii) that the time  
290 frame does not allow the appraiser the ability to meet all of the appraiser's relevant legal or  
291 professional obligations, and the appraiser has communicated such belief to the appraisal  
292 management company; and

293 (viii) knowingly fail to compensate appraisers at a rate that is customary and reasonable  
294 for appraisal services in the market area of the property being appraised, consistent with section  
295 129E of the Truth in Lending Act and regulations promulgated thereunder.

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

298 (i) consider additional appropriate material property information;

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

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

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



309 that the appraiser has gained the required experience or geographic knowledge to competently  
310 complete the assignments.

311 Section 276. (a) The board may, by order, deny, suspend, revoke, or refuse to issue or  
312 renew a registration of an appraisal management company or may restrict or limit activities of a  
313 person who owns an interest in or participates in the business of an appraisal management  
314 company if the board determines that an applicant, registrant, or any partner, member, manager,  
315 officer, director, managing principal, or person occupying a similar status, performing similar  
316 functions, or directly or indirectly controlling the applicant or registrant has done any of the  
317 following:

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

321 (ii) violated or failed to comply with any provision of sections 266 to 279 or any rules  
322 and regulations adopted by the board;

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

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

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

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

334 (vii) structured an appraisal assignment or a contract with an appraiser for the purpose of  
335 evading the provisions of sections 266 to 279; or

336 (viii) failed to pay the proper filing or renewal fee under sections 266 to 279.

337 (b) The board may, by order, impose a civil penalty upon a registrant or any partner,  
338 officer, director, managing principal, or other person occupying a similar status or performing  
339 similar functions on behalf of a registrant for any violation of sections 266 to 279. The civil  
340 penalty shall not exceed \$10,000 for each violation.

341 (c) In addition to other powers under sections 266 to 279, upon finding that any action of  
342 a person is in violation of sections 266 to 279, the board may order the person to cease from the  
343 prohibited action. If the person subject to the order fails to appeal the order of the board or the  
344 person appeals the order and the appeal is denied or dismissed and the person continues to  
345 engage in the prohibited action in violation of the board's order, the person shall be subject to a  
346 civil penalty of not more than \$25,000 for each violation of the order. The penalty provision of  
347 this section shall be in addition to and not in lieu of any other provision of law applicable to a  
348 registrant for the registrant's failure to comply with an order of the board.

349 (d) Unless otherwise provided, all actions and hearings under sections 266 to 279 shall be  
350 governed by chapter 30A.

351 (e) If the board has reasonable grounds to believe that an appraisal management company  
352 has violated the provisions of sections 266 to 279 or that facts exist that would be the basis for an  
353 order against an appraisal management company, the board may at any time, either personally or  
354 by a person duly designated by the board, investigate or examine the books, accounts, records,  
355 and files of any registrant or other person relating to the complaint or matter under investigation.

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

362 Section 277. Every registered appraisal management company shall maintain the records  
363 related to services provided by the appraisal management company as prescribed in regulations  
364 adopted by the board. All records shall be preserved in accordance with the Record Keeping  
365 Rule of USPAP unless the board, by regulation, prescribes otherwise for particular types of  
366 records.

367 Section 278. The board may appear in its own name in superior court in actions for  
368 injunctive relief to prevent any person from violating the provisions of sections 266 to 279 or  
369 regulations adopted by the board. The superior court shall have the power to grant these  
370 injunctions whether criminal prosecution has been or may be instituted as a result of the  
371 violations or whether the person is the holder of a registration issued by the board under sections  
372 266 to 279.

373 Section 279. (a) The board shall have the authority to conduct investigations and  
374 examinations for:

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

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

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

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

392 (ii) the date of the crime;

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

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

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

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

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