

**SENATE . . . . . No. 2696**

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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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SENATE, December 27, 2018

The committee on Ways and Means to whom was referred the House Bill regulating appraisal management companies (House, No. 4566); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2696.

For the committee,  
Joan B. Lovely

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1           SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section  
2 92, as appearing in the 2016 Official Edition, and inserting in place thereof the following  
3 section:-

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

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

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

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

20 (e) The board shall hold not less than 6 meetings each year and may hold special  
21 meetings as required at a time and place determined by the board.

22 SECTION 2. Chapter 112 of the General Laws is hereby amended by inserting after  
23 section 274 the following 14 sections:-

24 Section 275. The following terms, as used in sections 275 to 288, inclusive, shall have the  
25 following meanings, unless the context clearly requires otherwise:

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

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

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

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

36 “Appraisal management company” or “AMC”, an entity that: (i) provides appraisal  
37 management services to creditors or to secondary mortgage market participants, including  
38 affiliates; (ii) provides such services in connection with valuing a consumer's principal dwelling  
39 as security for a consumer credit transaction or incorporating such transactions into  
40 securitizations; and (iii) within a given 12-month period, oversees an appraiser panel of not less  
41 than 15 certified or licensed appraisers in the commonwealth or not less than 25 certified or  
42 licensed appraisers in two or more states; provided, however, that an AMC shall not include a  
43 department or division of an entity that provides appraisal management services only to that  
44 entity.

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

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

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

55 “Appraisal review”, the act or process of developing and communicating an opinion  
56 about the quality of another appraiser’s work that was performed as part of an appraisal  
57 assignment related to the appraiser’s data collection, analysis, opinions, conclusions, opinion of

58 value or compliance with the Uniform Standards of Professional Appraisal Practice; provided  
59 however, that “appraisal review” shall not include: (i) a general examination for grammatical,  
60 typographical or similar errors or (ii) a general examination for completeness including  
61 regulatory or client requirements as specified in an agreement that does not communicate an  
62 opinion of value.

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

68 “Appraiser” or “real estate appraiser”, a person who develops and communicates real  
69 estate appraisals and who holds a current, valid certificate as a state-certified general real estate  
70 appraiser, state-certified residential real estate appraiser or state-licensed real estate appraiser  
71 pursuant to section 178; provided, however, that an appraiser who contracts with another  
72 certified or licensed appraiser to perform, or assist in the performance of, an appraisal  
73 assignment shall not be classified as an employee under section 148B of chapter 149.

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

80 participants in connection with covered transactions; provided further, that an appraiser shall be  
81 considered an independent contractor if the appraiser is treated as an independent contractor by  
82 the AMC for the purpose of federal income taxation.

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

85 “Controlling person”, a person who is: (i) an officer or director of an AMC or an  
86 individual who holds an ownership interest of not less than 10 per cent in an AMC; (ii) an  
87 individual employed, appointed or authorized by an AMC who has authority to enter into a  
88 contractual relationship with clients for the performance of appraisal services and who has the  
89 authority to enter into agreements with independent appraisers for the completion of appraisals;  
90 or (iii) an individual who possesses the power to direct or cause the direction of the management  
91 or policies or procedures of an AMC.

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

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

97 “Employee in charge”, a designated employee of an AMC who continually holds a valid  
98 license issued by an appraiser licensing authority as a certified appraiser, with the responsibilities  
99 and obligations to the board as set forth in section 280.

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

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

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

106           “Registrant”, a real estate AMC registered pursuant to sections 275 to 288, inclusive.

107           “Uniform Standards of Professional Appraisal Practice” or “USPAP”, the entire uniform  
108 appraisal standards document titled Uniform Standards of Professional Appraisal Practice.

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

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

111           Section 276. (a) It shall be unlawful for a person to directly or indirectly: (i) engage or  
112 attempt to engage in business as an AMC; (ii) engage in or attempt to perform appraisal  
113 management services or to advertise or hold the individual or entity out as engaging in or  
114 conducting business as an AMC without first being registered by the board under the provisions  
115 of sections 275 to 288, inclusive, regardless of the person’s use of the term “appraisal  
116 management company”, “mortgage technology company” or any other name.

117           (b) The provisions of sections 275 to 288, inclusive, shall not apply to:

118                   (i) an agency of the federal government or any state or municipal government;

119 (ii) an AMC that is owned and controlled by an insured depository institution, as  
120 defined in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the  
121 Board of Governors in the Federal Reserve System, or the Federal Deposit Insurance  
122 Corporation; or

123 (iii) a licensed real estate broker or salesperson performing activities in  
124 accordance with subsection B of section 174 provided, however, that this exemption shall not  
125 apply to a real estate broker who receives compensation of any kind in connection with the  
126 referral or placement of an appraisal assignment.

127 (c) An appraiser may not perform appraisal services for real property located in the  
128 commonwealth for an AMC that is not registered under sections 275 to 288, inclusive, unless  
129 exempt from licensing under subsection (b). An appraiser, who relies upon the written assurance  
130 of an AMC regarding its registration status, shall not be subject to disciplinary action by the  
131 board.

132 Section 277. The board shall have the authority to adopt rules and regulations that are  
133 reasonable and necessary to: (i) implement, administer and enforce the provisions of sections 275  
134 to 288, inclusive; and (ii) comply with federal rules or regulations promulgated pursuant to  
135 section 1124 of the Federal Financial Reform, Recovery and Enforcement Act of 1989. The  
136 board shall adopt rules and regulations in accordance with federal regulations promulgated  
137 pursuant to said section 1124 of the Financial Institutions Reform, Recovery, and Enforcement  
138 Act of 1989 for the purpose of determining whether an appraiser is deemed part of an AMC's  
139 appraiser panel within a 12-month period.



140           Section 278. (a) A person desiring to be registered as an appraisal management company  
141 in the commonwealth shall make written application to the board on forms prescribed by the  
142 board setting forth the applicant's qualifications for registration. The application shall be  
143 accompanied by the applicable fee as determined annually by the secretary of administration and  
144 finance pursuant to section 3B of chapter 7 and any other information the board deems necessary  
145 pursuant to rules and regulations adopted by the board. Upon receipt of a completed application  
146 and set fee the board shall make a determination as to whether each person who owns more than  
147 10 per cent of an applicant AMC is of good moral character. The board shall then issue to the  
148 qualified applicant a certificate of registration authorizing the applicant to act as a real estate  
149 AMC in the commonwealth.

150           (b) An application for registration shall include the following:

151                   (i) a certification that the applicant has a system and process in place to verify that  
152 a person being added to the appraiser panel of the AMC for appraisal assignments on real  
153 property located in the commonwealth holds a real estate appraiser license or certification in  
154 good standing in the commonwealth issued pursuant to this chapter;

155                   (ii) a certification that the applicant has a system in place to review the work of all  
156 real estate appraisers that are performing real estate appraisal services for the AMC on a periodic  
157 basis to confirm that the real estate appraisal services are being conducted in accordance with the  
158 Uniform Standards of Professional Appraisal Practice; and

159                   (iii) a certification that the applicant maintains a detailed record of each request  
160 for appraisal services that it receives, the name of the appraiser that performs the appraisal

161 services for the AMC and a complete digital copy of every version of each appraisal report  
162 completed by the appraiser.

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

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

177 (e) A registrant having a good faith belief that a real estate appraiser licensed in the  
178 commonwealth has violated applicable law or materially violated the Uniform Standards of  
179 Professional Appraisal Practice or engaged in unethical conduct shall, not more than 45 days  
180 from identifying the violation, file a complaint with the board.

181 Section 279. An appraisal management company applying to the board for registration in  
182 the commonwealth shall designate 1 controlling person who shall be the main contact for all

183 communication between the board and the AMC. The controlling person may also be designated  
184 the employee in charge.

185 Section 280. In order to serve as the employee in charge for a registered appraisal  
186 management company, a designee shall, in addition to continually holding a valid license issued  
187 by a state appraiser licensing authority as a state certified appraiser:

188 (i) not have had a license to practice as an appraiser or to engage in any activity related to  
189 the transfer of real property refused, denied, canceled or revoked in the commonwealth or in any  
190 other state;

191 (ii) be of good moral character;

192 (iii) submit to a background investigation; and

193 (iv) shall be responsible for:

194 (A) management of the process of selecting appraisers for the performance of real  
195 estate appraisal services;

196 (B) management of the process of conducting appraisal reviews; provided,  
197 however, that an employee of an AMC or a contractor working on behalf of such company who  
198 has any involvement in the performance of an appraisal review of completed appraisals of real  
199 property located in the commonwealth shall be licensed or certified in the commonwealth and in  
200 good standing pursuant to the provisions of sections 275 to 288, inclusive; and

201 (C) maintaining required documentation as part of the board file.

202           Section 281. An appraisal management company shall file a form, signed by the  
203           designated controlling person or employee in charge, with the board indicating the AMC's  
204           designation of the controlling person and employee in charge and the individual's acceptance of  
205           the responsibility. The board shall establish a process, including appropriate timing, for  
206           administering any change in the designated controlling person or employee in charge. An AMC  
207           that does not comply with this section shall have its registration suspended pursuant to section  
208           285 until it complies with this section. An individual operating an AMC as a sole proprietorship  
209           shall be a certified general or certified residential appraiser and shall be considered the  
210           controlling person for purposes of sections 275 to 288, inclusive, unless another controlling  
211           person is designated.

212           Section 282. The following fees shall be determined annually by the secretary of  
213           administration and finance under the provision of section 3B of chapter 7 and shall be collected  
214           by the board: (i) an application fee; (ii) an initial registration fee; (iii) an annual renewal fee; (iv)  
215           a change in controlling person or employee in charge fee; and (v) a late renewal fee.

216           Section 283. In addition to the filing fee, each applicant for registration shall post with  
217           the board and maintain a surety bond in an amount designated by the board. The bond shall: (i)  
218           be in the form prescribed by the board; and (ii) accrue to the commonwealth for the benefit of a  
219           claimant against the registrant to secure the faithful performance of the registrant's obligations  
220           pursuant to sections 275 to 288, inclusive.

221           The aggregate liability of the surety shall not exceed the principal sum of the bond. A  
222           party having a claim against the registrant may bring suit directly on the surety bond, or the  
223           board may bring suit on behalf of the party having a claim against the registrant. A deposit of

224 cash or security may be accepted in lieu of the surety bond. A claim reducing the face amount of  
225 the bond shall be restored annually upon renewal of the registrant's registration.

226 Section 284. (a) No employee, director, officer, managing principal or agent of an  
227 appraisal management company or any other third party acting as joint venture partner or  
228 independent contractor shall influence or attempt to influence the development, reporting, result  
229 or review of a real estate appraisal through coercion, extortion, collusion, compensation,  
230 inducement, intimidation, bribery or in any other manner, including:

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

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

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

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

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

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

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

250 (viii) allowing the removal of a real estate appraiser from a list of qualified  
251 appraisers used by the registrant without prior written notice stating the reason for removal to the  
252 appraiser; provided, however, that the notice shall include written evidence if the appraiser is  
253 removed from the list for illegal conduct, substandard performance or otherwise improper or  
254 unprofessional behavior or any violation of the Uniform Standards of Professional Appraisal  
255 Practice or licensing standards of the commonwealth;

256 (ix) any other act or practice that impairs or attempts to impair a real estate  
257 appraiser's independence, objectivity or impartiality; or

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

261 (b) An employee, director, officer, managing principal or agent of an appraisal  
262 management company or any other third party acting as joint venture partner or independent  
263 contractor shall not:

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

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

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

270 (iv) require an appraiser to sign an indemnification agreement that would require  
271 the appraiser to defend and hold harmless the AMC or any of its agents, employees or  
272 independent contractors for any liability, damage, losses or claims arising out of the services  
273 performed by the AMC or its agents, employees or independent contractors and not the services  
274 performed by the appraiser;

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

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

279 (vii) require an appraiser to accept an appraisal assignment if the appraiser, in the  
280 appraiser's own independent professional judgment believes: (A) the appraiser does not have the  
281 necessary expertise for the assignment or knowledge of the geographic area; or (B) that the time  
282 frame does not allow the appraiser the ability to meet all of the appraiser's relevant legal or  
283 professional obligations, and the appraiser has communicated such belief to the AMC; or

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

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

289 (i) consider additional appropriate material property information;

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

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

293 (d) An appraisal management company shall not refuse to assign requests or orders for  
294 appraisals or reduce the number of assignments or otherwise penalize an appraiser who does not  
295 accept an assignment or order in accordance with clause (vii) of subsection (b); provided,  
296 however, that nothing in this section shall require an AMC to offer future appraisal assignments  
297 of a particular nature or type to an appraiser who previously indicated a lack of the necessary  
298 expertise or geographic knowledge for such assignments, except in the case where the appraiser  
299 subsequently demonstrates, to the satisfaction of the AMC, that the appraiser has gained the  
300 required experience or geographic knowledge to competently complete the assignments.

301 Section 285. (a) The board may, by order, deny, suspend, revoke or refuse to issue or  
302 renew a registration of an appraisal management company or may restrict or limit activities of a  
303 person who owns an interest in or participates in the business of an AMC if the board determines  
304 that an applicant, registrant or any partner, member, manager, officer, director, managing



305 principal or person occupying a similar status, performing similar functions or directly or  
306 indirectly controlling the applicant or registrant has done any of the following:

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

310 (ii) violated or failed to comply with any provision of sections 275 to 288,  
311 inclusive, or any rules or regulations adopted by the board;

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

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

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

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

323 (vii) structured an appraisal assignment or a contract with an appraiser for the  
324 purpose of evading the provisions of sections 275 to 288, inclusive; or

325 (viii) failed to pay the proper filing or renewal fee under sections 275 to 288;  
326 inclusive.

327 (b) The board may, by order, impose a civil penalty upon a registrant or any partner,  
328 officer, director, managing principal or other person occupying a similar status or performing  
329 similar functions on behalf of a registrant for any violation of sections 275 to 288, inclusive. The  
330 civil penalty shall not exceed \$10,000 for each violation.

331 (c) In addition to other powers under sections 275 to 288, inclusive, upon finding that any  
332 action of a person is in violation of said sections 275 to 288, inclusive, the board may order the  
333 person to cease from the prohibited action. If the person subject to the order fails to appeal the  
334 order of the board or the person appeals the order and the appeal is denied or dismissed and the  
335 person continues to engage in the prohibited action in violation of the board's order, the person  
336 shall be subject to a civil penalty of not more than \$25,000 for each violation of the order. The  
337 penalty provision of this section shall be in addition to and not in lieu of any other provision of  
338 law applicable to a registrant for the registrant's failure to comply with an order of the board.

339 (d) Unless otherwise provided, all actions and hearings under sections 275 to 288,  
340 inclusive, shall be governed by chapter 30A.

341 (e) If the board has reasonable grounds to believe that an appraisal management company  
342 has violated the provisions of sections 275 to 288, inclusive, or that facts exist that would be the  
343 basis for an order against an AMC, the board may at any time, either personally or by a person  
344 duly designated by the board, investigate or examine the books, accounts, records and files of  
345 any registrant or other person relating to the complaint or matter under investigation.

346 (f) The board shall have the power to issue subpoenas requiring the attendance of persons  
347 and the production of papers and records before the board in any hearing, investigation, inquiry  
348 or other proceeding conducted by the board. Upon the production of any papers, records or  
349 documents, the board shall have the power to authorize true copies of the papers, records or  
350 documents to be substituted in the permanent record of the matter in which the papers, records or  
351 documents shall have been introduced in evidence.

352 Section 286. Every registered appraisal management company shall maintain the records  
353 related to services provided by the AMC as prescribed in regulations adopted by the board. All  
354 records shall be preserved in accordance with the record keeping rule of the USPAP unless the  
355 board, by regulation, prescribes otherwise for particular types of records.

356 Section 287. The board may file an action for injunctive relief to prevent any person from  
357 violating the provisions of sections 275 to 288, inclusive, or regulations adopted by the board.  
358 The superior court shall have the power to grant an injunction whether criminal prosecution has  
359 been or may be instituted as a result of the violation or whether the person is the holder of a  
360 registration issued by the board under said sections 275 to 288, inclusive.

361 Section 288. (a) The board shall have the authority to conduct investigations and  
362 examinations for the purposes of:

363 (i) initial registration, registration renewal, registration suspension, registration  
364 conditioning, registration revocation or termination or general or specific inquiry or investigation  
365 to determine compliance with sections 275 to 288, inclusive; provided, however, that the board  
366 shall have the authority to access, receive and use any books, accounts, records, files, documents,  
367 information or evidence including, but not limited to: (A) criminal, civil and administrative

368 history information, including non-conviction data as specified in applicable provisions of the  
369 General Laws; and (B) any other documents, information or evidence the board deems relevant  
370 to the inquiry or investigation regardless of the location, possession, control or custody of such  
371 documents, information or evidence;

372 (ii) investigating violations or complaints arising under sections 275 to 288,  
373 inclusive; and

374 (iii) reviewing, investigating or examining any registrant, individual or person  
375 subject to this chapter, in order to carry out the purposes of this chapter.

376 (b) If a criminal history record check for a person who directly or indirectly owns more  
377 than 10 per cent of an entity applying for registration, or any officer, controlling person,  
378 employee in charge or managing principal of an entity applying for registration, pursuant to  
379 subsection (c) of section 278, reveals 1 or more convictions, the conviction shall not  
380 automatically bar registration if the conviction is not related to the financing or transfer of real  
381 property. The board shall consider all of the following factors regarding the conviction:

382 (i) the seriousness of the crime;

383 (ii) the date of the crime;

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

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

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

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