

HOUSE No. 1114

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas M. Stanley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to appraisal management companies.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/9/2019</i>
<i>James Arciero</i>	<i>2nd Middlesex</i>	<i>1/31/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/29/2019</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/1/2019</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>	<i>1/22/2019</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	<i>1/30/2019</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>2/1/2019</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/29/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/22/2019</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>	<i>1/29/2019</i>
<i>Marcos A. Devers</i>	<i>16th Essex</i>	<i>1/29/2019</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>1/29/2019</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>2/1/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/29/2019</i>
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>1/30/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/31/2019</i>
<i>Bradford Hill</i>	<i>4th Essex</i>	<i>1/23/2019</i>

<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/25/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/23/2019</i>
<i>Kathleen R. LaNatra</i>	<i>12th Plymouth</i>	<i>1/16/2019</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>1/31/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/28/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/30/2019</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>1/30/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/25/2019</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>2/1/2019</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/23/2019</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	<i>1/29/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>2/1/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>1/29/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/1/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>1/30/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/25/2019</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>2/1/2019</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>1/31/2019</i>
<i>Timothy R. Whelan</i>	<i>1st Barnstable</i>	<i>1/28/2019</i>

HOUSE No. 1114

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to 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 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 defined
120 in 12 U.S.C. 1813 and regulated by the Office of the Comptroller of the Currency, the Board of
121 Governors in the Federal Reserve System, or the Federal Deposit Insurance Corporation; or
122 (iii) a licensed real estate broker or salesperson performing activities in accordance with
123 subsection B of section 174 provided, however, that this exemption shall not apply to a real
124 estate broker who receives compensation of any kind in connection with the referral or
125 placement of an appraisal assignment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

190 (ii) be of good moral character;

191 (iii) submit to a background investigation; and

192 (iv) shall be responsible for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

242 (vi) providing to a real estate appraiser an anticipated, estimated, encouraged or desired
243 value for a subject property or a proposed or targeted amount to be loaned to the borrower;

244 provided, however, that a real estate appraiser should be provided with a copy of the sales
245 contract for purchase transactions, if available;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

287 (i) consider additional appropriate material property information;

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

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

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

299 Section 285. (a) The board may, by order, deny, suspend, revoke or refuse to issue or
300 renew a registration of an appraisal management company or may restrict or limit activities of a
301 person who owns an interest in or participates in the business of an AMC if the board determines
302 that an applicant, registrant or any partner, member, manager, officer, director, managing
303 principal or person occupying a similar status, performing similar functions or directly or
304 indirectly controlling the applicant or registrant has done any of the following:

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

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

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

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

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

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

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

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

324 (b) The board may, by order, impose a civil penalty upon a registrant or any partner,
325 officer, director, managing principal or other person occupying a similar status or performing

326 similar functions on behalf of a registrant for any violation of sections 275 to 288, inclusive. The
327 civil penalty shall not exceed \$10,000 for each violation.

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

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

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

343 (f) The board shall have the power to issue subpoenas requiring the attendance of persons
344 and the production of papers and records before the board in any hearing, investigation, inquiry
345 or other proceeding conducted by the board. Upon the production of any papers, records or
346 documents, the board shall have the power to authorize true copies of the papers, records or

347 documents to be substituted in the permanent record of the matter in which the papers, records or
348 documents shall have been introduced in evidence.

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

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

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

360 (i) initial registration, registration renewal, registration suspension, registration
361 conditioning, registration revocation or termination or general or specific inquiry or investigation
362 to determine compliance with sections 275 to 288, inclusive; provided, however, that the board
363 shall have the authority to access, receive and use any books, accounts, records, files, documents,
364 information or evidence including, but not limited to: (A) criminal, civil and administrative
365 history information, including non-conviction data as specified in applicable provisions of the
366 General Laws; and (B) any other documents, information or evidence the board deems relevant
367 to the inquiry or investigation regardless of the location, possession, control or custody of such
368 documents, information or evidence;

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

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

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

379 (i) the seriousness of the crime;

380 (ii) the date of the crime;

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

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

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

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