

**SENATE . . . . . No. 2288**

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-First General Court**  
**(2019-2020)**  
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SENATE, July 11, 2019.

The committee on Ways and Means to whom was referred the House Bill relative to appraisal management companies (House, No. 3904),-- 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 2288.

For the committee,  
Michael J. Rodrigues

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## The Commonwealth of Massachusetts

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

1 SECTION 1. Chapter 13 of the General Laws is hereby amended by striking out section  
2 92, as appearing in the 2018 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 pursuant to section 9B, 1 of whom shall be a  
7 member of the banking industry, 1 of whom shall represent an appraisal management company  
8 and 5 of whom shall be real estate appraisers who are licensed or certified pursuant to sections  
9 173 to 195, inclusive, of chapter 112.

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

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

17 (d) The board shall annually elect a chairperson from among its members.

18 (e) The board shall hold not less than 6 meetings each year and may hold special  
19 meetings as the board deems necessary at a time and place to be determined by the board.

20 SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the  
21 following 14 sections:-

22 Section 276. As used in sections 276 to 289, inclusive, the following words shall have the  
23 following meanings unless the context clearly requires otherwise:-

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

26 “Appraisal” or “real estate appraisal”, a written analysis, opinion or conclusion prepared  
27 by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or  
28 aspects of, identified real estate. An appraisal may be classified as a valuation or an analysis, or  
29 both. A valuation is an estimate of the value of real estate or real property. An analysis is a study  
30 of real estate or real property other than estimating value.

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

35 “Appraisal management company”, an entity that: (i) provides appraisal management  
36 services to creditors or to secondary mortgage market participants, including affiliates; (ii)  
37 provides such services in connection with valuing a consumer’s principal dwelling as security for

38 a consumer credit transaction or incorporating such transactions into securitizations; and (iii)  
39 within a given 12-month period, oversees an appraiser panel of not less than 16 certified or  
40 licensed appraisers in the commonwealth or not less than 25 certified or licensed appraisers in 2  
41 or more states; provided, however, that an appraisal management company shall not include a  
42 department or division of an entity that provides appraisal management services only to that  
43 entity.

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

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

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

54 “Appraisal review”, the act or process of developing and communicating an opinion  
55 about the quality of another appraiser’s work that was performed as part of an appraisal  
56 assignment related to the appraiser’s data collection, analysis, opinions, conclusions, opinion of  
57 value or compliance with the Uniform Standards of Professional Appraisal Practice; provided,  
58 however, that “appraisal review” shall not include: (i) a general examination for grammatical,  
59 typographical or similar errors; or (ii) a general examination for completeness, including

60 regulatory or client requirements as specified in an agreement that does not communicate an  
61 opinion of value.

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

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

73 “Appraiser panel”, a network, list or roster of licensed or certified appraisers approved by  
74 an appraisal management company who perform appraisals as independent contractors for  
75 appraisal management companies; provided, however, that such licensed or certified appraisers  
76 shall include: (i) appraisers accepted by the appraisal management company for consideration for  
77 future appraisal assignments in covered transactions or for secondary mortgage market  
78 participants in connection with covered transactions; and (ii) appraisers engaged by an appraisal  
79 management company to perform at least 1 appraisal in a covered transaction or for a secondary  
80 mortgage market participant in connection with a covered transaction; and provided further, that

81 an appraiser shall be considered an independent contractor if the appraiser is treated as an  
82 independent contractor by the appraisal management company for federal income tax purposes.

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

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

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

93 “Dwelling”, a residential structure that contains 1 to 4 units, whether or not that structure  
94 is attached to real property; provided, however, that “dwelling” shall include a condominium  
95 unit, a cooperative unit, a mobile home and trailer if it is used as a residence.

96 “Employee in charge”, a designated employee of an appraisal management company who  
97 holds a valid license as an appraiser and who has the responsibilities and obligations to the board  
98 as set forth in section 281.

99 “Person”, a natural person or an organization, including a sole proprietorship,  
100 partnership, limited liability company, limited partnership, corporation, association or other  
101 group engaged in joint business activities, however organized.

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

103 “Real property”, the defined interests, benefits and rights inherent in the ownership of  
104 real estate.

105 “Registrant”, a real estate appraisal management company registered pursuant to sections  
106 276 to 289, inclusive.

107 “Uniform Standards of Professional Appraisal Practice”, the appraisal standards  
108 promulgated by the Appraisal Standards Board of the Appraisal Foundation.

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

110 Section 277. (a) No person shall directly or indirectly: (i) engage or attempt to engage in  
111 business as an appraisal management company; or (ii) engage in or attempt to perform appraisal  
112 management services or to advertise or hold the individual or entity out as engaging in or  
113 conducting business as an appraisal management company without first being registered by the  
114 board under sections 276 to 289, inclusive, regardless of the person’s use of the term “appraisal  
115 management company”, “mortgage technology company” or any other name.

116 (b) Sections 276 to 289, inclusive, shall not apply to:

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

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

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

126 (c) An appraiser shall not perform appraisal services for real property located in the  
127 commonwealth for an appraisal management company that is not registered under sections 276  
128 to 289, inclusive, unless exempt from licensing under subsection (b). An appraiser who relies  
129 upon the written assurance of an appraisal management company regarding its registration status  
130 shall not be subject to disciplinary action by the board.

131 Section 278. The board may adopt rules and regulations that are reasonable and necessary  
132 to: (i) implement, administer and enforce sections 276 to 289, inclusive; and (ii) comply with any  
133 federal rules or regulations promulgated pursuant to Title XI of the Financial Reform, Recovery  
134 and Enforcement Act of 1989, 12 U.S.C. 3331 et seq. The board shall adopt rules and regulations  
135 in accordance with federal regulations promulgated pursuant to said Title XI of the federal  
136 Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for the purpose of  
137 determining whether an appraiser shall be deemed to be part of an appraisal management  
138 company's appraiser panel within a 12-month period.

139 Section 279. (a) A person desiring to be registered as an appraisal management company  
140 shall make written application to the board on forms prescribed by the board setting forth the  
141 applicant's qualifications for registration. The application shall be accompanied by the applicable  
142 fee as determined annually by the secretary of administration and finance pursuant to section 3B  
143 of chapter 7 and any other information the board deems necessary pursuant to rules and



144 regulations adopted by the board. Upon receipt of a completed application and the applicable fee,  
145 the board shall make a determination as to whether each person who owns more than 10 per cent  
146 of an applicant appraisal management company is of good moral character. The board shall then  
147 issue to the qualified applicant a certificate of registration authorizing the applicant to act as a  
148 real estate appraisal management company.

149 (b) An application for registration shall include:

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

154 (ii) a certification that the applicant has a system in place to review the work of all  
155 real estate appraisers that are performing real estate appraisal services for the appraisal  
156 management company on a periodic basis to confirm that the real estate appraisal  
157 services are being conducted in accordance with the Uniform Standards of Professional  
158 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  
161 appraisal services for the appraisal management company and a complete digital copy of  
162 every version of each appraisal report 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 an officer, controlling person, employee in charge or managing principal of an  
165 entity applying for registration shall, at a minimum, furnish to the board information concerning

166 the person's identity, including fingerprints, for submission to the Federal Bureau of  
167 Investigation and to any government 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 shall be of good moral character as determined by the board. An appraisal  
172 management company that is owned, in whole or in part, directly or indirectly, by a person who  
173 has had a license or certificate to act as an appraiser or to engage in any activity related to the  
174 transfer of real property refused, denied, canceled, surrendered in lieu of revocation or revoked  
175 in the commonwealth or in any other state, whether on a temporary or permanent basis, shall not  
176 be eligible for registration.

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

179 (e) A registrant's controlling person or employee in charge who has a good faith belief  
180 that a real estate appraiser licensed in the commonwealth has violated applicable law or  
181 materially violated the Uniform Standards of Professional Appraisal Practice or engaged in  
182 unethical conduct shall, not more than 45 days after identifying the violation or unethical  
183 conduct, file a complaint with the board.

184 Section 280. An appraisal management company applying to the board for registration  
185 shall designate 1 controlling person who shall be the main contact for all communication  
186 between the board and the appraisal management company. The controlling person may also be  
187 designated the employee in charge.

188 Section 281. In order to serve as the employee in charge for a registered appraisal  
189 management company, a designee, in addition to holding a valid license as an appraiser, shall:

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

193 (ii) be of good moral character;

194 (iii) submit to a background investigation; and

195 (iv) be responsible for:

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

198 (B) the management of the process of conducting appraisal reviews; provided,  
199 however, that an employee of an appraisal management company or a contractor working  
200 on behalf of such company who has any involvement in the performance of an appraisal  
201 review of completed appraisals of real property located in the commonwealth shall be  
202 licensed or certified in the commonwealth and in good standing pursuant to sections 276  
203 to 289, inclusive; and

204 (C) maintaining the documentation required by sections 276 to 289, inclusive.

205 Section 282. An appraisal management company shall file a form, signed by the  
206 designated controlling person or employee in charge, with the board indicating the appraisal  
207 management company's designation of the controlling person and employee in charge and the  
208 individual's acceptance of the responsibility. The board shall establish a process, including

209 appropriate timing, for administering any change in the designated controlling person or  
210 employee in charge. An appraisal management company that fails to comply with this section  
211 shall have its registration suspended pursuant to section 286 until it complies with this section.  
212 An individual operating an appraisal management company as a sole proprietorship shall be a  
213 state-certified general real estate appraiser or state-certified residential real estate appraiser and  
214 shall be considered the controlling person for purposes of sections 276 to 289, inclusive, unless  
215 another controlling person is designated.

216 Section 283. The following fees shall be determined annually by the secretary of  
217 administration and finance under section 3B of chapter 7 and shall be collected by the board: (i)  
218 an application fee; (ii) an initial registration fee; (iii) an annual renewal fee; (iv) a change in  
219 controlling person or employee in charge fee; and (v) a late renewal fee.

220 Section 284. In addition to the filing fee, each applicant for registration shall post with  
221 the board and maintain a surety bond in an amount to be determined by the board. The bond  
222 shall: (i) be in the form prescribed by the board; and (ii) accrue to the commonwealth for the  
223 benefit of a claimant against the registrant to secure the faithful performance of the registrant's  
224 obligations pursuant to sections 276 to 289, inclusive.

225 The aggregate liability of the surety shall not exceed the principal sum of the bond. A  
226 party having a claim against the registrant may bring an action directly on the surety bond or the  
227 board may bring an action on behalf of the party having a claim against the registrant. A deposit  
228 of cash or security may be accepted in lieu of a surety bond. If a claim is made on a bond, the  
229 registrant shall not have the registrant's registration renewed until the bond is restored to the full  
230 amount required under this section.

231 Section 285. (a) No employee, director, officer, managing principal or agent of an  
232 appraisal management company or a third party acting as a joint venture partner or an  
233 independent contractor of an appraisal management company shall influence or attempt to  
234 influence the development, reporting, result or review of a real estate appraisal through coercion,  
235 extortion, collusion, compensation, inducement, intimidation, bribery or other manner which  
236 may include, but shall not be limited to including:

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

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

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

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

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

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

255 (vii) providing to an appraiser, or to a person or entity related to the appraiser,  
256 stock or other financial or nonfinancial benefits;

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

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

267 (x) the performance of any other act or practice that impairs or attempts to impair  
268 an appraiser's independence, objectivity or impartiality.

269 (b) An employee, director, officer, managing principal or agent of an appraisal  
270 management company or a third party acting as a joint venture partner or an independent  
271 contractor of an appraisal management company shall not:

272 (i) alter, modify or otherwise change a completed appraisal report submitted by an  
273 appraiser without the appraiser's written acknowledgment and consent;

274 (ii) alter, modify or otherwise change a completed appraisal report submitted by  
275 an appraiser; provided, however, that an appraiser shall transmit a true and exact copy to  
276 the client and any intended users;

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

278 (iv) require an appraiser to sign an indemnification agreement that would require  
279 the appraiser to defend and hold harmless the appraisal management company or any of  
280 its agents, employees or independent contractors for any liability, damages, losses or  
281 claims arising out of the services performed by the appraisal management company or its  
282 agents, employees or independent contractors and not the services performed by the  
283 appraiser;

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

286 (vi) prohibit an appraiser from recording the fee the appraiser received for the  
287 performance of an appraisal assignment within the body of the appraisal report;

288 (vii) require an appraiser to accept an appraisal assignment if the appraiser, in the  
289 appraiser's independent professional judgment believes: (A) the appraiser does not have  
290 the necessary expertise for the assignment or knowledge of the geographic area; or (B)  
291 that the time frame does not allow the appraiser the ability to meet all of the appraiser's

292 relevant legal or professional obligations and the appraiser has communicated such belief  
293 to the appraisal management company; or

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

298 (c) Nothing in this section shall prohibit an appraisal management company from  
299 requesting that an appraiser:

300 (i) consider additional appropriate material property information;

301 (ii) provide further detail, substantiation or explanation for the appraiser's value  
302 conclusion; or

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

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



313           Section 286. (a) The board may, by order, deny, suspend, revoke or refuse to issue or  
314 renew a registration of an appraisal management company or may restrict or limit the activities  
315 of a person who owns an interest in or participates in the business of an appraisal management  
316 company if the board determines that an applicant or a registrant or a partner, member, manager,  
317 officer, director, managing principal or person occupying a similar status performing similar  
318 functions or directly or indirectly controlling the applicant or registrant has:

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

322                   (ii) violated or failed to comply with sections 276 to 289, inclusive;

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

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

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

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

334 (vii) structured an appraisal assignment or a contract with an appraiser for the  
335 purpose of evading sections 276 to 289, inclusive; or

336 (viii) failed to pay the proper filing or renewal fee under sections 276 to 289;  
337 inclusive.

338 (b) The board may, by order, impose a civil penalty upon a registrant, or upon a partner,  
339 officer, director, managing principal, controlling person, employee in charge or other person  
340 occupying a similar status or performing similar functions on behalf of a registrant, for a  
341 violation of sections 276 to 289, inclusive. The civil penalty shall not exceed \$10,000 for each  
342 violation.

343 (c) Upon finding that any action of a person is in violation of sections 276 to 289,  
344 inclusive, the board may, in addition to any other penalties under said sections 276 to 289,  
345 inclusive, order the person to cease from the prohibited action. If the person subject to the order  
346 fails to appeal the order of the board or the person appeals the order and the appeal is denied or  
347 dismissed and the person continues to engage in the prohibited action in violation of the board's  
348 order, the person shall be subject to a civil penalty of not more than \$25,000 for each violation of  
349 the order. The penalty under this section shall be in addition to and not in lieu of any other  
350 penalty applicable to a registrant for the registrant's failure to comply with an order of the board.

351 (d) Unless otherwise provided, all actions and hearings under sections 276 to 289,  
352 inclusive, shall be governed by chapter 30A.

353 (e) If the board has reasonable grounds to believe that an appraisal management company  
354 has violated sections 276 to 289, inclusive, or that facts exist that would be the basis for an order  
355 against an appraisal management company, the board may, either personally or by a person

356 designated by the board, investigate or examine the books, accounts, records and files of any  
357 registrant or other person relating to the complaint or matter under investigation.

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

363 Section 287. Each appraisal management company shall maintain the records related to  
364 the services it provides. All records shall be preserved in accordance with the record keeping rule  
365 of the Uniform Standards of Professional Appraisal Practice unless the board, by regulation,  
366 prescribes additional requirements for particular types of records.

367 Section 288. The board may file an action for injunctive relief to prevent violations of  
368 sections 276 to 289, inclusive. The superior court may grant an injunction against a person who it  
369 deems to be violating said sections 276 to 289, inclusive, notwithstanding that criminal  
370 prosecution has been or may be instituted for such violation or that the person deemed to be  
371 violating said sections 276 to 289, inclusive, is the holder of a registration issued by the board.

372 Section 289. (a) The board may conduct investigations and examinations for the purposes  
373 of:

374 (i) initial registration, registration renewal, registration suspension, registration  
375 conditioning, registration revocation or termination or general or specific inquiry or  
376 investigation to determine compliance with sections 276 to 289, inclusive; provided,  
377 however, that for the purposes of any such investigation or examination, the board may

378 access, receive and use any books, accounts, records, files, documents, information or  
379 other evidence including, but not limited to: (A) criminal, civil and administrative  
380 history, including nonconviction data as specified in the General Laws; and (B) any other  
381 material the board deems relevant to the inquiry or investigation without regard to the  
382 location, possession, control or custody of such material;

383 (ii) investigating violations or complaints arising under sections 276 to 289,  
384 inclusive; and

385 (iii) reviewing, investigating or examining any registrant, individual or person  
386 subject to sections 276 to 289, inclusive.

387 (b) If a criminal history record check for a person who directly or indirectly owns more  
388 than 10 per cent of an entity applying for registration or for an officer, controlling person,  
389 employee in charge or managing principal of an entity applying for registration pursuant to  
390 subsection (c) of section 279 reveals a conviction, such conviction shall not automatically bar  
391 registration if the conviction is not related to the financing or transfer of real property. The board  
392 shall consider all of the following factors regarding the conviction:

393 (i) the seriousness of the crime;

394 (ii) the date of the crime;

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

396 (iv) the circumstances surrounding the commission of the crime, if available;

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

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

401 SECTION 3. The terms of the members of the board of real estate appraisers in office on  
402 the effective date of this act shall immediately expire and members of the board shall be  
403 appointed pursuant to section 92 of chapter 13 of the General Laws, as appearing in section 1;  
404 provided, however, that, of the members first appointed, 3 shall serve for 3 years, 3 shall serve  
405 for 2 years and 3 shall serve for 1 year. Notwithstanding the expiration of a member's term of  
406 office under this section, former members of the board may be reappointed.