

HOUSE No. 4399

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 13, 2016.

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

For the committee,

BRIAN S. DEMPSEY.

The Commonwealth of Massachusetts

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

An Act to regulate appraisal management companies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 (2) be of good moral character;

197 (3) submit to a background investigation; and

198 (4) shall be responsible for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

296 (i) consider additional appropriate material property information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

390 (ii) the date of the crime;

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

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

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

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

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