

HOUSE No. 4295

The Commonwealth of Massachusetts

By Mr. Naughton of Clinton, for the committee on Veterans and Federal Affairs, on House, No. 4235, a Bill for the Home of the Brave (House, No. 4295) October 22, 2009.

An Act for the Home of the Brave.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Harold P. Naughton, Jr.	12th Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act for the Home of the Brave.

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to make certain sections would tend to defeat its purpose; therefore, this act is declared to be an emergency law, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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.

2 Notwithstanding any general or special law to the contrary, the Commonwealth of Massachusetts shall
3 recognize the board of trustees of the Home of the Brave, Inc. a 5.01(c)(3) non-profit corporation may
4 construct and operate public homes for veterans. Such homes shall be considered "State Homes". The
5 construction, purchase, and operation shall be funded from available federal and state funds and private
6 funds. The primary purpose of such Homes is to provide support and care for honorably discharged
7 veterans who served in the Armed Forces of the United States for no less than 180 days.

8 SECTION 2.

9 The corporation shall have, but not be limited to the following powers:-

10 Make and execute contracts and all other instruments necessary or convenient for the exercise of
11 its powers and functions under this chapter.

12 Acquire, in the name of the home, real or personal property of any interest therein, including
13 rights or easements, on either a temporary or long-term basis by gift, purchase, transfer, foreclosure, lease
14 or otherwise.

15 Hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal
16 property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession

17 and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired,
18 including treat of foreclosure.

19 Procure insurance against any loss in connection with its property and other assets in amounts and
20 from insurers which it deems desirable.

21 Receive, on behalf of the State, bequests and donations that may be made to improve the general
22 comfort and welfare of the members of the home or for the betterment of the home.

23 Borrow funds, make and issue bonds and negotiate notes and other evidences of indebtedness or
24 obligations of the veterans' home for prudent and reasonable capital, operational and maintenance
25 purposes. The home may secure payments of all or part of the obligations by pledge of part of the
26 revenues or assets of the home that are available for pledge and that may be lawfully pledged or by
27 mortgage of part, or all, of any property owned by the home. The home may do all lawful things
28 necessary and incidental to those powers. The home may borrow money from the Federal Government
29 and its agencies, from state agencies and from any other source.

30 Do other acts necessary or convenient to exercise the powers granted or reasonably implied in
31 this section.

32 SECTION 3.

33 The corporation shall appoint an administrator who shall be an honorably discharged veteran who shall
34 administer the Home in accordance with the rules, guidelines and general policies established by the
35 board. The administrator serves an indefinite term, but may be removed for cause by the board. The
36 administrator's salary is set by the board. The administrator shall hire the necessary employees to operate
37 the home and, whenever possible, give preference in hiring to war veterans. These employees shall not be
38 employees of the Commonwealth.

39 SECTION 4.

40 Veterans desiring admission to the home shall apply on forms prescribed by the administrator.
41 Admission shall be granted only to veterans who were residents of the Commonwealth at time of entry
42 into the armed forces or at the time of application and to the spouses, widows or widowers of eligible
43 veterans, provided that suitable facilities are available. Parents of armed services members who are killed
44 in action or die as a consequence of wounds received in battle are also eligible, as so called "Gold Star"
45 parents, for admission. Admission must be granted when provisions of the rules governing private
46 payment, Medicare and Medicaid eligibility to entitled persons are met. Each veteran admitted shall pay
47 the home, as determined by the board, his share of his maintenance which he can afford.

48 SECTION 5.

49 All unrestricted funds received in the future by Home of the Brave, Inc., including federal Veterans'
50 Administration stipend funds, must be held in a permanent fund to be used as required by the
51 administrator for the support and maintenance of the Homes. A percentage of these funds approved by
52 the board of trustees must be placed in reserve for capital improvement expenditures. Home of the Brave,
53 Inc. shall operate the Homes, when constructed or purchased, as self-liquidating projects until all the

54 bonds issued as provided by this chapter are retired. The Executive Office of Health and Human Services
55 shall not modify its principles of reimbursement for any future long-term care facilities to specifically
56 exclude reimbursement for the depreciation of the assets created with federal or state grants. The
57 corporation shall retain as direct income revenue any stipend funds they may receive from the federal
58 Veterans' Administration for the Homes' entire eligible resident population. The Executive Office of
59 Health and Human Services shall neither receive the proceeds nor require the application of stipend funds
60 in the Medicare or Medicaid rate justification submissions by Home of the Brave, Inc.

61 SECTION 6.

62 The corporation shall make an annual report to the Governor on or before November 11. The report shall
63 contain statistics of all veterans who resided in the Home during the year, recommendations to the
64 Governor and General Court and such other matters as the corporation deems pertinent.

65 SECTION 7.

66 The corporation's fiscal year shall be the same as the Commonwealth's. The corporation may apply for
67 and receive any grants-in-aid for which the corporation shall be eligible. The corporation shall adopt
68 rules for the administration of the home. Every department and agency of the Commonwealth shall upon
69 request furnish assistance, counsel and advice as the corporation shall require. The Home of the Brave
70 Inc. is subject to the provisions of Chapter 180.

71 SECTION 8.

72 Chapter 33 of the General Laws is hereby amended by inserting after section 67 the following section:-

73 Section 67A. There shall be a Massachusetts Medal of Liberty which shall be awarded to the next of kin
74 of service men and women killed in action. The adjutant general and two field grade officers of the
75 armed forces of the commonwealth detailed by the commander-in-chief shall constitute a commission to
76 make recommendations to the commander-in-chief for the awarding of the Medal of Liberty.

77 SECTION 9.

78 Chapter 23 of the General Laws, is hereby amended by adding the following section:

79 Section 25. Notwithstanding any other general or special law to the contrary veterans who reside in the
80 Commonwealth and are honorably discharged may be exempted from apprenticeship, school and other
81 requirements to acquire a permit or license to perform work in an area requiring a license. The
82 commissioner shall promulgate rules and regulations to award veterans exemption from requirements or
83 credits towards licensure for all related military experience and schooling in the area in which the veteran
84 seeks to be licensed. The rules and regulations shall include but not be limited to accepting military
85 training and work experience in lieu of apprenticeship fully or partially, as the licensing authority
86 determines for the veteran in regards to an apprenticeship and other training requirements.

87 SECTION 10.

88 Chapter 115 of the General Laws is hereby amended by inserting after section 2B the following new
89 section:

90 Section 2C. The Commonwealth-wide goal for participation by small businesses owned and controlled
91 by disabled veterans shall be established at not less than 3 percent of total value of all state contract and
92 sub-contract awards for each fiscal year.

93 For the purposes of this section, a veteran-owned small business shall be defined as any contracting or
94 sub-contracting business, or businesses that supply contractors or sub-contractors which are beneficially
95 owned by one or more disabled veteran a(s) defined in clause Forty-third of section seven of chapter four
96 and as follows:

97 (i) the business must be at least 51 percent owned by a disabled veteran or veterans; in the case of a
98 corporation having one or more class of stockholders, the ownership must be met as to each class of
99 stock;

100 (ii) the business must employ at least one but no more than 100 employees, with a majority of those
101 employed by the business working at least 40 hours per week.

102 (iii) the disabled veteran owner or owners shall demonstrate that they have dominant control over
103 management;

104 (vi) the business has not been established solely for the purpose of taking advantage of any special
105 program which has been developed to assist veteran-owned businesses;

106 (v) in the case of a joint venture between a disabled veteran-owned business meeting the requirements of
107 clauses (i) and (iii), inclusive, and a non-veteran-owned business, the joint venture should be found to be
108 a disabled veteran-owned business if the disabled veteran-owned business meeting the requirements of
109 said clauses (i) and (iii), inclusive, shall have more than one-half control over management of the project
110 bid and shall have the right to receive more than one-half of the profits deriving from the that project.

111 The Massachusetts Office of Business Development shall oversee and administer the program and work
112 in collaboration with the Massachusetts Small Business Development Center and the National Veterans
113 Business Development Corporation to establish and update, by periodic additions and deletions, a list of
114 disabled veteran-owned businesses defined under this section and shall cause the list to be published in
115 the central register established in section 20 of chapter 9, and filed with the Joint Committee on State
116 Administration, the Joint Committee on Veteran's and Federal Affairs, and in such other publications as
117 the chair of the Office shall designate. The Department of Veterans Services shall assist the Office to
118 validate the disabled veteran status and all disabled veteran-owners applying for state contracts or sub-
119 contracts under this section.

120 The Office shall submit an annual report disclosing the actual percentage of contracts awarded to disabled
121 veteran-owned small businesses and a detailed listing of contracts awarded to veteran-owned small
122 businesses to the Secretary of the Department of Veteran's Services, the Secretary of the Department of
123 Administration and Finance, and to the House and Senate Chairs of the Joint Committee on Veteran's and
124 Federal Affairs.

125 This act shall take effect on the first day of the next fiscal year following the act's passage.

126 SECTION 11.

127 Notwithstanding any general or special law to the contrary a Massachusetts resident that is sent overseas
128 as a member of the United States Armed Forces is eligible to receive the Welcome Home bill each time
129 deployed, receiving the full bonus upon return of first deployment and fifty percent of the bonus on each
130 subsequent deployments, as long as currently appropriated funding is available and the Treasurer of the
131 Commonwealth certifies said account has the available means to maintain such an initiative. The
132 Treasurer shall provide a status report on the account from time to time to the Secretary of Veterans
133 Services, Secretary of Administration and Finance, The Senate Committee on Ways and Means, The
134 House Committee on Ways and Means and the Joint Committee on Veteran and Federal Affairs.

135 SECTION 12.

136 Subsection (a) of section 91B of chapter 54 of the General Laws, as appearing in the 2006 Official
137 Edition, is hereby amended by striking out in line 4 the words, “subsections (b) and (c),” and inserting in
138 place thereof the following words:- subsections (b), (c), and (d),.

139 SECTION 13.

140 Section 91B of chapter 54 of the General Laws, as appearing in the 2006 Official Edition, is hereby
141 amended by inserting after subsection (c) the following subsection:

142 (d) To a voter qualified under the federal Uniformed and Overseas Citizens Absentee Voting Act (42
143 USC section 1973ff-2), the ballot may be delivered electronically by fax, e-mail, or secure website. The
144 secretary of state may promulgate rules and regulations necessary for the implementation of this section.

145 SECTION 14.

146 Section 95 of chapter 54 of the General Laws, as appearing in the 2006 Official Edition, is hereby
147 amended by striking out, in line 39 the words “tenth”, and inserting in place thereof the following words:-
148 twentieth

149 SECTION 15.

150 Section 99 of chapter 54 of the General Laws, as appearing in the 2006 Official Edition, is hereby
151 amended by striking out, in line 6 the words “ten”, and inserting in place thereof the following words:-
152 twenty.

153 SECTION 16.

154 Chapter 33 of the General Laws is hereby amended by adding the following section:

155 Section 139. The military forces of the commonwealth shall initiate a functional MRI and
156 neuropsychological cognitive testing programs for all its personnel. Said testing shall take place
157 beginning at their inception to military service and prior to their deployment, during deployment and upon
158 return. If a test indicates diminution of cognitive ability, they shall be referred for medical treatment for
159 diagnosis and follow-up treatment. The Adjutant General of the Massachusetts National Guard shall form
160 a committee to promulgate rules and regulations to administer and shall carry out said,
161 neuropsychological cognitive testing program for the Massachusetts National Guard.

162 SECTION: 17.

163 Section 18 of chapter 207 of the General Laws, as appearing in the 2006 Official Edition is hereby
164 amended by adding the following paragraph:-

165 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
166 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
167 changes the child's placement that existed on the date the parent was called to active military duty, except
168 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
169 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
170 custody order in effect immediately preceding that period of active military duty. If a motion for change
171 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
172 absence due to that military duty in a best interest of the child determination.

173 SECTION 18.

174 Section 19 of chapter 208 of the General Laws, as so appearing, is hereby amended by adding the
175 following paragraph:

176 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
177 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
178 changes the child's placement that existed on the date the parent was called to active military duty, except
179 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
180 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
181 custody order in effect immediately preceding that period of active military duty. If a motion for change
182 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
183 absence due to that military duty in a best interest of the child determination.

184 SECTION 19.

185 Section 20 of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:

186 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
187 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
188 changes the child's placement that existed on the date the parent was called to active military duty, except
189 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
190 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
191 custody order in effect immediately preceding that period of active military duty. If a motion for change
192 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
193 absence due to that military duty in a best interest of the child determination.

194 SECTION 21.

195 Section 20A of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

196 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
197 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
198 changes the child's placement that existed on the date the parent was called to active military duty, except

199 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
200 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
201 custody order in effect immediately preceding that period of active military duty. If a motion for change
202 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
203 absence due to that military duty in a best interest of the child determination.

204 SECTION 22.

205 Section 28 of said chapter 208, as so appearing is hereby amended by adding the following paragraph:-

206 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
207 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
208 changes the child's placement that existed on the date the parent was called to active military duty, except
209 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
210 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
211 custody order in effect immediately preceding that period of active military duty. If a motion for change
212 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
213 absence due to that military duty in a best interest of the child determination.

214 SECTION 23.

215 Section 28A of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

216 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
217 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
218 changes the child's placement that existed on the date the parent was called to active military duty, except
219 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
220 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
221 custody order in effect immediately preceding that period of active military duty. If a motion for change
222 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
223 absence due to that military duty in a best interest of the child determination.

224 SECTION 24.

225 Section 29 of said chapter 208, as so appearing, is hereby amended by adding the following paragraph:-

226 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
227 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
228 changes the child's placement that existed on the date the parent was called to active military duty, except
229 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
230 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
231 custody order in effect immediately preceding that period of active military duty. If a motion for change
232 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
233 absence due to that military duty in a best interest of the child determination.

234 SECTION 25.

235 Section 32 of chapter 209 of the General Laws, as so appearing, is hereby amended by adding the
236 following paragraph:-

237 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
238 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
239 changes the child's placement that existed on the date the parent was called to active military duty, except
240 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
241 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
242 custody order in effect immediately preceding that period of active military duty. If a motion for change
243 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
244 absence due to that military duty in a best interest of the child determination.

245 SECTION 26.

246 Section 37 of said chapter 209, as so appearing, is hereby amended by adding the following paragraph:-

247 If a motion for change of custody is filed during the time a parent is in active military duty, the court shall
248 not enter an order modifying or amending a previous judgment or order, or issue a new order, that
249 changes the child's placement that existed on the date the parent was called to active military duty, except
250 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
251 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
252 custody order in effect immediately preceding that period of active military duty. If a motion for change
253 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
254 absence due to that military duty in a best interest of the child determination.

255 SECTION 27.

256 Section 2 of chapter 209B of the General Laws is hereby amended by striking out subsection (e), as so
257 appearing, and inserting in place thereof the following subsection:-

258 (e) If a court of another state has made a custody determination in substantial conformity with this
259 chapter, a court of the commonwealth shall not modify that determination unless (1) it appears to the
260 court of the commonwealth that the court which made the custody determination does not now have
261 jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or that such
262 court has declined to assume jurisdiction to modify its determination, (2) a court of the commonwealth
263 now has jurisdiction pursuant to this chapter and (3) if a motion for change of custody is filed during the
264 time a parent is in active military duty, the court shall not enter an order modifying or amending a
265 previous judgment or order, or issue a new order, that changes the child's placement that existed on the
266 date the parent was called to active military duty, except the court may enter a temporary custody order if
267 there is clear and convincing evidence that it is in the best interest of the child. Upon a parent's return
268 from active military duty, the court shall reinstate the custody order in effect immediately preceding that
269 period of active military duty. If a motion for change of custody is filed after a parent returns from active
270 military duty, the court shall not consider a parent's absence due to that military duty in a best interest of
271 the child determination.

272 SECTION 28.

273 Section 3 of chapter 209C of the General Laws, as so appearing is hereby amended by adding the
274 following subsection:-

275 (f) If a motion for change of custody is filed during the time a parent is in active military duty, the court
276 shall not enter an order modifying or amending a previous judgment or order, or issue a new order, that
277 changes the child's placement that existed on the date the parent was called to active military duty, except
278 the court may enter a temporary custody order if there is clear and convincing evidence that it is in the
279 best interest of the child. Upon a parent's return from active military duty, the court shall reinstate the
280 custody order in effect immediately proceeding that period of active military duty. If a motion for change
281 of custody is filed after a parent returns from active military duty, the court shall not consider a parent's
282 absence due to that military duty in a best interest of the child determination.

283 SECTION 29.

284 Section 4 of chapter 51 of the General Laws, as so appearing is hereby amended by adding the following
285 wording in line 48 after the word "general" the following:

286 “, Secretary of the Commonwealth’s Department of Veteran Services and Local Municipal Veteran
287 Service Officers.”