

HOUSE No. 624

The Commonwealth of Massachusetts

PRESENTED BY:

Garrett J. Bradley

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

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

An Act relative to the Home of the Brave.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Garrett J. Bradley	3rd Plymouth
James E. Vallee	10th Norfolk
Michael F. Rush	10th Suffolk
William C. Galvin	6th Norfolk
David P. Linsky	5th Middlesex
William Smitty Pignatelli	4th Berkshire
George N. Peterson, Jr.	9th Worcester
John V. Fernandes	10th Worcester
Kevin Aguiar	7th Bristol
Brian P. Wallace	4th Suffolk
Kate Hogan	3rd Middlesex
Michael J. Rodrigues	8th Bristol
Walter F. Timilty	7th Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Martin J. Walsh	13th Suffolk
William N. Brownsberger	24th Middlesex
John D. Keenan	7th Essex
Christine E. Canavan	10th Plymouth
Kathi-Anne Reinstein	16th Suffolk

James Cantwell	4th Plymouth
Susan Williams Gifford	2nd Plymouth
Barbara A. L'Italien	18th Essex
James H. Fagan	3rd Bristol
Elizabeth Poirier	14th Bristol
Alice K. Wolf	25th Middlesex
James M. Murphy	4th Norfolk
Cory Atkins	14th Middlesex
Allen J. McCarthy	7th Plymouth
F. Jay Barrows	1st Bristol
James R. Miceli	19th Middlesex
Kevin G. Honan	17th Suffolk
Stephen Stat Smith	28th Middlesex
Ruth B. Balser	12th Middlesex
Matthew C. Patrick	3rd Barnstable
Robert L. Rice, Jr.	2nd Worcester
Frank I. Smizik	15th Norfolk
Karen E. Spilka	Second Middlesex and Norfolk
Kay Khan	11th Middlesex
Paul McMurtry	11th Norfolk
Martha M. Walz	8th Suffolk
Anne M. Gobi	5th Worcester
Michael J. Moran	18th Suffolk
Charles Murphy	21st Middlesex
Harold P. Naughton, Jr.	12th Worcester
William M. Straus	10th Bristol
Tom Sannicandro	7th Middlesex
Michael Brady	9th Plymouth
John P. Fresolo	16th Worcester
Thomas A. Golden, Jr.	16th Middlesex
Carlo P. Basile	1st Suffolk
Timothy J. Toomey, Jr.	26th Middlesex
James Dwyer	30th Middlesex
Dennis Rosa	4th Worcester
Sean Garballey	23rd Middlesex
Geraldo Alicea	6th Worcester
Jonathan Hecht	29th Middlesex
Joseph R. Driscoll, Jr.	5th Norfolk
Bill Bowles	2nd Bristol
Jeffrey Davis Perry	5th Barnstable
Alice Hanlon Peisch	14th Norfolk
Cleon H. Turner	1st Barnstable

Thomas J. Calter	12th Plymouth
Jennifer L. Flanagan	Worcester and Middlesex
Carolyn Dykema	8th Middlesex
Louis L. Kafka	8th Norfolk
Thomas P. Kennedy	Second Plymouth and Bristol
Thomas M. Stanley	9th Middlesex
Sarah K. Peake	4th Barnstable
John A. Hart, Jr.	First Suffolk
Thomas M. McGee	Third Essex and Middlesex
Michael O. Moore	Second Worcester

**MEMORANDUM OF THE MASSACHUSETTS SECRETARY OF STATE IN RESPECT
TO THE PETITION OF GARRETT J. BRADLEY AND OTHER MEMBERS OF THE
GENERAL COURT
FOR LEGISLATION TO AUTHORIZE THE BOARD OF TRUSTEES OF THE HOME OF
THE BRA VE, INC.
TO OPERATE CERTAIN PUBLIC HOMES FOR VETERANS**

April 2, 2009

To the Honorable Senate and House of Representatives:

The above-referenced petition was transmitted to me by the Clerk of the House of Representatives on March 31, 2009 with a request for a memorandum pursuant to Massachusetts General Laws Chapter 3 § 7.

The Home of the Brave, Inc. was incorporated on September 24, 2002 pursuant to G.L. c. 180 to provide and promote housing, care, assistance, support and other programs for veterans.

The bill before you provides that the board of trustees of the corporation may construct and operate public homes for veterans. Such homes are to be considered "State Homes" and are to be funded from available federal, state and private funds. The purpose of the State Homes is to provide housing to honorably discharged veterans who served in the Armed Forces of the United States for not less than 180 days, and in certain circumstances, to a spouse or parents.

Special legislation is necessary to effect the desired result. The office wholeheartedly supports the objective of the bill. However, sections 5 and 7 of the legislation likely violate the separation of powers contained in Article XXX of the Declaration of Rights of the State Constitution. Moreover, Section 7, which directs every department and agency of the Commonwealth to furnish assistance, counsel and advice to the corporation, creates a conflict of interest in those agencies charged simultaneously with regulating and assisting the corporation, such as the Attorney General and/or Inspector General.

Accordingly, this office objects to these sections of the bill. No fee is required by a corporation of this type under the provisions of Chapter 3 § 7.

Respectfully submitted,

William Francis Galvin

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE HOME OF THE BRAVE.

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

6 SECTION 2. The corporation shall have, but not be limited to the following powers:-

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

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

12 Hold, sell, assign, lease, rent, encumber, mortgage or otherwise dispose of any real or personal
13 property, or any interest therein, or mortgage interest owned by it or in its control, custody or possession
14 and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired,
15 including treat of foreclosure.

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

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

20 Borrow funds, make and issue bonds and negotiate notes and other evidences of indebtedness or
21 obligations of the veterans' home for prudent and reasonable capital, operational and maintenance
22 purposes. The home may secure payments of all or part of the obligations by pledge of part of the
23 revenues or assets of the home that are available for pledge and that may be lawfully pledged or by

24 mortgage of part, or all, of any property owned by the home. The home may do all lawful things
25 necessary and incidental to those powers. The home may borrow money from the Federal Government
26 and its agencies, from state agencies and from any other source.

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

29 SECTION 3. The corporation shall appoint an administrator who shall be an honorably discharged
30 veteran who shall administer the Home in accordance with the rules, guidelines and general policies
31 established by the board. The administrator serves an indefinite term, but may be removed for cause by
32 the board. The administrator's salary is set by the board. The administrator shall hire the necessary
33 employees to operate the home and, whenever possible, give preference in hiring to war veterans. These
34 employees shall not be employees of the Commonwealth.

35 SECTION 4. Veterans desiring admission to the home shall apply on forms prescribed by the
36 administrator. Admission shall be granted only to veterans who were residents of the Commonwealth at
37 time of entry into the armed forces or at the time of application and to the spouses, widows or widowers
38 of eligible veterans, provided that suitable facilities are available. Parents of armed services members
39 who are killed in action or die as a consequence of wounds received in battle are also eligible, as so called
40 "Gold Star" parents, for admission. Admission must be granted when provisions of the rules governing
41 private payment, Medicare and Medicaid eligibility to entitled persons are met. Each veteran admitted
42 shall pay the home, as determined by the board, his share of his maintenance which he can afford.

43 SECTION 5. All funds received by Home of the Brave, Inc., including federal Veterans' Administration
44 stipend funds, must be held in a permanent fund to be used as required by the administrator for the
45 support and maintenance of the Homes. A percentage of these funds approved by the board of trustees
46 must be placed in reserve for capital improvement expenditures. Home of the Brave, Inc. shall operate
47 the Homes, when constructed or purchased, as self-liquidating projects until all the bonds issued as
48 provided by this chapter are retired. The Executive Office of Health and Human Services shall not
49 modify its principles of reimbursement for long-term care facilities to specifically exclude reimbursement
50 for the depreciation of the assets created with federal or state grants. The corporation shall retain as direct
51 income revenue any stipend funds they may receive from the federal Veterans' Administration for the
52 Homes' entire eligible resident population. The Executive Office of Health and Human Services shall
53 neither receive the proceeds nor require the application of stipend funds in the Medicare or Medicaid rate
54 justification submissions by Home of the Brave, Inc.

55 SECTION 6. The corporation shall make an annual report to the Governor on or before November 11.
56 The report shall contain statistics of all veterans who resided in the Home during the year,
57 recommendations to the Governor and General Court and such other matters as the corporation deems
58 pertinent.

59 SECTION 7. The corporation's fiscal year shall be the same as the Commonwealth's. The corporation
60 may apply for and receive any grants-in-aid for which the Commonwealth or the corporation shall be
61 eligible. The corporation shall adopt rules for the administration of the home. Every department and

62 agency of the Commonwealth shall upon request furnish assistance, counsel and advice as the corporation
63 shall require.