

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 441

An Act for the relief of Elmo and Mary Lawrence.

[H 2630]

Approved March 16, 2003

Whereas, in December 1998, Elmo and Mary Lawrence (the Lawrences) entered into a contract with Carl E. Thacker, (Mr. Thacker) in the amount of \$89,000 to renovate a house located in Chesapeake, Virginia; and

Whereas, Mr. Thacker was at the time a contractor licensed by the State Board for Contractors; and

Whereas, the contract provided for scheduled draws of \$12,000 to be paid over the course of the project; and

Whereas, Mr. Thacker commenced work on the project in January 1999 and had received three of the draws through July 1999; and

Whereas, the Lawrences, after discovering that Mr. Thacker had not been using money received from the scheduled draws toward completion of the project, ordered Mr. Thacker off of the project on July 3, 1999; and

Whereas, within a few days of being ordered off of the project by the Lawrences, Mr. Thacker committed suicide; and

Whereas, after hiring another contractor to review the work that had been done by Mr. Thacker, the Lawrences determined that they had suffered more than \$40,000 in damages for incomplete work and work that had to be corrected to comply with the Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia), and for money that was taken by Mr. Thacker but never used for the project; and

Whereas, the Virginia Contractor Transaction Recovery Act (§ 54.1-1118 et seq.) (the Act), established the Contractor Transaction Recovery Fund (the Fund) to provide relief to homeowners in instances where a licensed contractor has engaged in fraud, material misrepresentation, or conduct constituting gross negligence, continued incompetence, or intentional violation of the Uniform Statewide Building Code; and

Whereas, prior to recovering from the Fund, the homeowner is required to obtain a judgment against the contractor; and

Whereas, despite several attempts to obtain a judgment against Mr. Thacker's estate, the Lawrences have been unsuccessful; and

Whereas, the conduct of Mr. Thacker, who was a licensed contractor, in this instance is the type of conduct for which the Act was intended to provide relief; and

Whereas, Elmo and Mary Lawrence have no other means to obtain relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the State Board for Contractors is directed to review the claim of Elmo and Mary Lawrence under the Virginia Contractor Transaction Recovery Act, notwithstanding the absence of a judgment, and determine if the conduct of Carl E. Thacker, t/a C.E. Thacker, amounts to "improper or dishonest conduct" as defined in § 54.1-1118 of the Code of Virginia. If the Board determines that the conduct amounts to improper or dishonest conduct, then the Board is further directed to allocate from the Virginia Contractor Transaction Recovery Fund the amount of the claim of Elmo and Mary Lawrence subject to the limitation provided by § 54.1-1123. Any allocation from the Fund shall be subject to the execution of a release of all claims Elmo and Mary Lawrence may have against the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision in connection with the aforesaid occurrence.*