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SENATE BILL NO. 1196

Offered January 8, 2003

Prefiled January 8, 2003

A BILL for the relief of Daniel and Brenda Brewer.

Patron—Reynolds

Referred to Committee on Finance

Whereas, Daniel and Brenda Brewer (the Brewers) contracted with Stanley Houchins on or about July 30, 1984 to construct a single-family home on property belonging to the Brewers for the sum of \$38,500; and

Whereas, at the time of contracting with the Brewers, Stanley Houchins was licensed by the Virginia Board for Contractors as a Class A contractor; and

Whereas, to pay for the construction, the Brewers secured a loan from the First Federal Savings and Loan of Wytheville providing for the total cost of the contract to be paid in three installments due at different stages of the work; and

Whereas, on October 10, 1984, the contractor obtained a building permit from the Wythe County Building Officials' Office (the building official) as required by the Uniform Statewide Building Code (USBC); and

Whereas, on October 11, 1984, the building official inspected and passed as satisfactory the foundation and footings for the house; and

Whereas, on December 3, 1984, the building official inspected and passed as satisfactory the electric and plumbing rough-in work for the house; and

Whereas, construction of the house was ultimately completed in March of 1985, however the building official did not conduct a final inspection or issue the Certificate of Occupancy required by the USBC before occupancy could begin; and

Whereas, despite the lack of a final inspection or a Certificate of Occupancy, the building official allowed the Brewers to move into the house in March of 1985; and

Whereas, soon after moving into the house, problems with the structure became apparent to the Brewers including (i) unlevel hardwood floors, (ii) broken or sagging sheetrock, (iii) improperly installed electrical panel box, (iv) improper handrail installation for main stairway, (v) insufficient flashing where the porch roof intersects with main roof of the structure, (vi) unsupported roof over porch, and (vii) inadequate structural support provided by the main support beam for the structure; and

Whereas, the Brewers also discovered that the footers and foundation for the structure, though approved by the building official, were dug only 13 inches deep when they should have been at least 24 inches deep to ensure placement below the frost line; and

Whereas, the improperly dug footings and foundation resulted in severe structural problems; and

Whereas, the Brewers attempted to prevent the final installment of the construction loan from being paid, however, the bank proceeded to pay the last installment of the loan despite the opposition of the Brewers and without an approved final inspection and Certificate of Occupancy being issued by the building official; and

Whereas, the Brewers continued in their attempts to have the problems with their home addressed by both the contractor and the building official, to no avail; and

Whereas, the building official finally performed a final inspection and issued a Certificate of Occupancy on November 26, 1985, over eight months after allowing the Brewers to occupy the house; and

Whereas, despite the final inspection and the issuance of the Certificate of Occupancy, the building official did not take any action to enforce violations of the USBC; and

Whereas, after persistent attempts to get the contractor to correct the problems, the Brewers were eventually forced to initiated a civil action against the contractor in the Circuit Court of Wythe County; and

Whereas, though the evidence of the structural problems were clear, the contractor was able to use the approved final inspection and issuance of the Certificate of Occupancy for the house as evidence that the structure met the minimum requirements of the USBC; and

Whereas, as a result the court awarded only nominal damages in the amount of \$5,000, an amount that was not sufficient to correct the problems existing with the structure; and

Whereas, the Brewers did not accept the judgement and proceeded with further action against the contractor including hiring a structural engineer to detail the problems with the structure; and

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59 Whereas, after an inspection conducted on April 18, 1989, the structural engineer found (i) the
60 footings were only dug 13 inches deep, (ii) the basement floor slab was several inches out of level and
61 (iii) that a portion of the structure had been raised by frost action under the foundations; and

62 Whereas, the Brewers filed a complaint with the Board for Contractors; and

63 Whereas, after a hearing, the Board for Contractors entered a Final Order on May 3, 1991, revoking
64 the license of the contractor with a total fine of \$1,237.39; and

65 Whereas, the Brewers continued to pursue the contractor to correct the problems, but to no avail; and

66 Whereas, on November 23, 2001, the Brewers obtained an estimate in the amount of \$132,300 from
67 a contractor to correct the numerous problems with the house; and

68 Whereas, all the problems that will be corrected under the estimate stem from the improper
69 construction that was approved by the building official with a final Certificate of Occupancy being
70 issued for the structure; and

71 Whereas, Daniel and Brenda Brewer have no other means to obtain adequate relief except by action
72 of this body; now, therefore,

73 **Be it enacted by the General Assembly of Virginia:**

74 **1. § 1.** *That there is hereby appropriated from the general fund of the state treasury the sum of \$*
75 *132,300.00 for the relief of Daniel and Brenda Brewer, to be paid by check issued by the State*
76 *Treasurer on warrant of the Comptroller upon execution of a release of all claims Daniel and Brenda*
77 *Brewer may have against the Commonwealth or any agency, instrumentality, office, employee or*
78 *political subdivision in connection with the aforesaid occurrence.*