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HOUSE BILL NO. 1732

Offered January 8, 2003

Prefiled January 6, 2003

*A BILL for the relief of Daniel M. Zacharias.*_____
Patron—Louderback_____
Referred to Committee on Appropriations

Whereas, on or about October 3, 2000, Daniel M. Zacharias (Zacharias) purchased a 3.512 acre lot located in Shenandoah County, Virginia, for the purpose of building a home; and

Whereas, the lot is located in a subdivision that had previously been approved for septic systems by the Health Department; and

Whereas, at the time of the purchase, a report provided by George Swecker, a Soil Scientist and Authorized Onsite Soil Evaluator, to the previous owner indicated that the lot would support an onsite sewage disposal system; and

Whereas, Zacharias relied on the previous approval of the subdivision by the Health Department and the findings of the report when he purchased the lot in the belief that an onsite sewage disposal system would be adequate; and

Whereas, emergency regulations of the State Health Department, which were in effect at the time that Swecker provided his report to the previous owner, prevented officials of the Health Department from immediately reviewing any report of an authorized onsite soil evaluator until after an application for a sewage disposal construction permit had been submitted; and

Whereas, Zacharias proceeded to purchase the lot and subsequently submit an application for a sewage disposal construction permit with the Health Department, proposing an onsite sewage disposal system; and

Whereas, on November 6 and 14, 2000, the Health Department conducted a field review of the application as well as previously permitted sewage disposal sites that served the lot; and

Whereas, additional evaluations of the site were performed on behalf of the Health Department on November 20, 2000, by Phillip Cobb and December 5, 2000, by Jay Conta, both soil scientists; and

Whereas, on December 7, 2000, the Health Department issued a Notice of Informal Fact-Finding notifying Zacharias of its intention to deny his application for a sewage disposal construction permit; and

Whereas, the Informal Fact-Finding Conference (IFF) was held on January 18, 2001; and

Whereas, during the IFF, representatives of the Health Department could not establish with reasonable certainty that the specific location for which Zacharias was requesting the sewage disposal construction permit had been previously denied by the Health Department; and

Whereas, on February 6, 2001, despite the inability to determine the location of the site previously denied, the Health Department issued a case decision denying the permit application based in part on Section 310 of the Emergency Authorized Onsite Soil Evaluator Regulations, which provides in pertinent part that an Authorized Onsite Soil Evaluator cannot certify a site that has been previously denied by the Health Department; and

Whereas, if the Swecker report had been reviewed in a timely manner by the Health Department prior to Zacharias' purchase, there would not have been a finding that the lot could support an onsite sewage disposal system; and

Whereas, the inclusion of this information in the report would have indicated that the lot could not have supported an onsite sewage disposal system and Zacharias would not have purchased the lot; and

Whereas, Zacharias subsequently obtained approval from the Health Department to install an alternative system suitable for the lot at an additional cost of \$12,000; and

Whereas, the additional cost that would be associated with the installation of the alternate system would not have been necessary had the report of the authorized onsite soil evaluator been reviewed by the Health Department prior to the submission of the application for a sewage disposal construction permit; and

Whereas, Zacharias subsequently sold the lot at a loss; and

Whereas, Daniel M. Zacharias has no other means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That there is hereby allocated from the Onsite Sewage Indemnification Fund the sum of \$12,000 for the relief of Daniel M. Zacharias, to be paid by check issued by the State Treasurer on warrant of

INTRODUCED

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59 *the Comptroller upon execution of a release of all claims he may have against the Commonwealth or*
60 *any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid*
61 *occurrence.*