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SENATE BILL NO. 2**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Appropriations
on February 29, 2012)

(Patron Prior to Substitute—Senator Martin)

A BILL for the relief of Melissa Scianna.

Whereas, Melissa Scianna (Ms. Scianna) resides at 14441 Rosebud Road, Chesterfield, Virginia also known as Lot 13, block I, Section E of the Physic Hill Subdivision; and

Whereas, on or about November 26, 2001, the previous owner of the property requested a certification letter from the local health department (LHD) to install a conventional system to serve a three-bedroom house; and

Whereas, after the completion of a soil evaluation summary, the LHD issued a certification letter for a four-bedroom house on or about March 22, 2002; and

Whereas, a construction permit was subsequently issued to install a sewage system to serve a four-bedroom house; and

Whereas, on August 26, 2003, the LHD approved the installation of a substitute sewage system and issued an operation permit to use the sewage system; and

Whereas, on January 15, 2004, the LHD received a complaint that the sewage system had failed; and

Whereas, after inspection the LHD issued a Notice of Violation to the owner; and

Whereas, on March 15, 2004, the LHD approved repairs that were made and the system returned to normal function; and

Whereas, at some time subsequent to the approval, Ms. Scianna purchased the property; and

Whereas, on April 4, 2008, Ms. Scianna applied for a repair permit for the system, and on May 22, 2008, after an inspection, the LHD issued a Notice of Violation; and

Whereas, on April 30, 2008, the LHD confirmed that the sewage system for the property was failing; and

Whereas, on May 22, 2008, the LHD denied a conventional system repair based on "insufficient area of suitable soil for conventional drainfield and insufficient depth of suitable soil for conventional drainfield"; and

Whereas, on April 30, 2008, Ms. Scianna applied for a second repair permit, which was approved by the LHD on April 26, 2008; and

Whereas, on or about May 14, 2009, Ms. Scianna filed a claim with the State Health Department seeking under the Onsite Sewage Indemnification Fund (the Fund) the amount of \$19,299.06 to cover the costs of repairing the system; and

Whereas, as a part of her claim, Ms. Scianna included documentation asserting that financial hardship prevented her from repairing the sewage system; and

Whereas, § 32.1-164.1:01, in pertinent part, authorizes payment of a claim from the Fund if the system or components of the system fail within three years of the construction and the claim for recovery is filed within one year of the date that the system failed; and

Whereas, by letter dated February 24, 2010, Ms. Scianna was informed by the Department that the claim was denied because (i) the system failed over four years from the time that the system was returned to normal function under the previous owner and was therefore beyond the three-year time limit and (ii) her claim for recovery was filed approximately 13 months after she had submitted the application for the repair of the failed system; and

Whereas, Melissa Scianna 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 shall be paid for the relief of Melissa Scianna from the Onsite Sewage Indemnification Fund, upon execution of a release of all claims she may have against the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision in connection with the aforesaid occurrence, an amount equivalent to the actual cost to design and install an onsite sewage system in accordance with Board of Health regulations, with such amount not to exceed the amount specified by subsection E of § 32.1-164.1:01 and to be paid by check issued by the State Treasurer on warrant of the Comptroller, as follows:*

A. Up to \$12,500 upon Melissa Scianna's execution of a contract with a licensed onsite sewage system installer for the installation of a new onsite sewage system;

B. The balance of the actual cost of installation to be paid upon satisfactory completion of the installation as determined by the Department of Health and the presentation of a certified invoice from the installer; and

HOUSE
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60 *C. All construction shall be completed by December 31, 2012.*