

16104270D

HOUSE BILL NO. 1376

Offered January 22, 2016

A BILL for the relief of Paul R. DesRoches II.

Patrons—LeMunyon; Senator: Howell

Referred to Committee on Appropriations

Whereas, Paul R. DesRoches II (Mr. DesRoches) entered into a property management agreement with Apple Real Estate, a Virginia corporation; and

Whereas, on December 1, 2009, Mr. DesRoches terminated the management agreement with Apple Real Estate effective January 1, 2010; and

Whereas, despite the termination, Apple Real Estate continued to collect rent from tenants and never submitted any additional payments to Mr. DesRoches; and

Whereas, the total amount of rent payments that were fraudulently collected by Apple Real Estate reached \$25,000; and

Whereas, on April 25, 2012, Mr. DesRoches obtained a judgment against Apple Real Estate in the amount of \$26,304.84; and

Whereas, despite taking action to enforce the judgment, including conducting debtor interrogatories, Mr. DesRoches was unsuccessful, as Apple Real Estate had gone out of business; and

Whereas, the Virginia Real Estate Transaction Recovery Act (the Act) established the Real Estate Transaction Recovery Fund to provide relief to persons who have incurred losses through the improper or dishonest conduct of a licensed real estate salesperson, broker, or firm; and

Whereas, qualified claimants have been awarded judgments in courts of competent jurisdiction in the Commonwealth of Virginia that are based on improper or dishonest conduct; and

Whereas, "improper or dishonest conduct" is defined in § 54.1-2112 of the Code of Virginia as including "only the wrongful and fraudulent taking or conversion of money, property, or other things of value or material misrepresentation or deceit"; and

Whereas, in December 2012, Mr. DesRoches submitted a claim under the Act to recover the amount of the unpaid judgment he had obtained against Apple Real Estate; and

Whereas, in March 2013, the Virginia Real Estate Board (the Board) notified Mr. DesRoches that his claim had been denied because the judgment he had been awarded did not include the words "improper or dishonest conduct" on the face of the judgment order; and

Whereas, while the factual basis for the judgment supported detailed conduct that is included under the codified definition of "improper or dishonest conduct," the judgment order did not include the words "improper or dishonest conduct," causing the Board to conclude that the claim did not meet the requirements of the Act and therefore had to be denied; and

Whereas, in 2015, the General Assembly amended the Act to provide a means for the Board to determine what constitutes improper or dishonest conduct based on the facts of the case if the judgment order is otherwise silent, rather than be forced to deny a claimant relief because the claimant's attorney or the judge failed to use the correct words; and

Whereas, the amendments to the Act could not be used to retroactively approve the claim previously denied by the Board; and

Whereas, Mr. DesRoches 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 the Virginia Real Estate Board is directed to pay from the Virginia Real Estate Transaction Recovery Fund the sum of \$20,000 for the relief of Paul R. DesRoches II, to be paid upon execution of a release of all claims Mr. DesRoches may have against the Commonwealth or any agency, instrumentality, office, employee, or political subdivision in connection with the aforesaid occurrence.*

INTRODUCED

HB1376