

By Senator Gruters

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1 A bill to be entitled

2 An act for the relief of Douglas and Gail Quinn by the
3 Department of Business and Professional Regulation;
4 providing legislative intent; providing for an
5 appropriation to compensate Mr. and Mrs. Quinn for
6 injuries and damages they sustained by a contractor
7 licensed by the Department of Business and
8 Professional Regulation and by the Construction
9 Industry Licensing Board's actions in administering
10 the Florida Homeowners' Construction Recovery Fund;
11 providing a limitation on the payment of compensation
12 and attorney fees; providing an effective date.

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14 WHEREAS, on May 17, 2017, Douglas and Gail Quinn entered
15 into a contract with HD Custom Homes, Inc., to build a new
16 residence in Port Charlotte, and

17 WHEREAS, at that time, HD Custom Homes, Inc., based in
18 Englewood, was owned by Matthew Harden and Stephen Dukes, and

19 WHEREAS, Mr. Harden was a licensed contractor having
20 license number CBC1251858, issued by the Department of Business
21 and Professional Regulation, and

22 WHEREAS, HD Custom Homes, Inc., failed to complete the
23 building project, and Mr. and Mrs. Quinn subsequently contracted
24 with another builder, Horizon Homes of SW Florida, LLC, to
25 complete the project, and

26 WHEREAS, on May 23, 2019, HD Custom Homes, Inc., filed for
27 bankruptcy in the United States Bankruptcy Court for the Middle
28 District of Florida, and

29 WHEREAS, on August 9, 2019, Mr. and Mrs. Quinn filed a

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30 claim with the bankruptcy court to recover \$68,449.11 from HD
31 Custom Homes, Inc., for breach of contract, and

32 WHEREAS, on October 1, 2019, the bankruptcy court issued an
33 order precluding final judgment of state law claims, preventing
34 Mr. and Mrs. Quinn from moving forward with their claim in the
35 bankruptcy court, and

36 WHEREAS, on October 24, 2019, Mr. and Mrs. Quinn submitted
37 a claim to the Florida Homeowners' Construction Recovery Fund
38 for \$68,651.73 with all the necessary documentation, and

39 WHEREAS, the Legislature established the Florida
40 Homeowners' Construction Recovery Fund for such instances,
41 allowing claimants to recover up to \$50,000 each from a Division
42 1 licensee, and an aggregate total of \$500,000 per Division 1
43 licensee, and

44 WHEREAS, on September 3, 2020, the Construction Industry
45 Licensing Board issued a final order denying Mr. and Mrs.
46 Quinn's claim, because other approved claims against Mr. Harden
47 had reached the aggregate limit of \$500,000, and

48 WHEREAS, on October 6, 2020, Mr. and Mrs. Quinn appealed
49 the Construction Industry Licensing Board's decision to the
50 First District Court of Appeal, contending that the payments
51 previously awarded to other claimants were awarded in error, and

52 WHEREAS, on September 30, 2021, the First District Court of
53 Appeal affirmed the Construction Industry Licensing Board's
54 decision to deny Mr. and Mrs. Quinn's claim, and

55 WHEREAS, the Florida Supreme Court has construed the far-
56 reaching circumstances to which the Legislature may extend
57 relief to any matter under the common law of this state in
58 *Gerard v. Dept. of Transp.*, 472 So.2d 1170, 1172 (Fla. 1985)

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59 ("...we agree with the Department of Transportation's assertion
60 that a judgment in this case was not a prerequisite to Gerard's
61 filing a claims bill in the legislature. As the First District
62 Court stated in *Jetton v. Jacksonville Electric Authority*, 399
63 So.2d 396, 397 (Fla. 1st DCA 1981), while the legislature has
64 placed limits on recovery, 'claimants remain free to seek
65 legislative relief bills, as they did during days of complete
66 sovereign immunity'"), or *Dickinson v. Bradley*, 298 So.2d 352,
67 354 (Fla. 1974) ("...any claim bill is restricted to less than
68 the general public and its purpose is to discharge the state's
69 moral obligation to any individual or other entity whom or which
70 the legislature recognizes as being entitled to such.... The
71 legislature may enact a claim bill for what would be a tort if a
72 private party was involved just as effectively as for what would
73 constitute a contractual debt."), NOW, THEREFORE,

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75 Be It Enacted by the Legislature of the State of Florida:

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77 Section 1. The facts stated in the preamble to this act are
78 found and declared to be true.

79 Section 2. This is solely an equitable claim, not based on
80 an existing judgment, which the Legislature believes should be
81 granted to Douglas and Gail Quinn to remedy an injustice after
82 exhausting all other avenues to seek restitution.

83 Section 3. The sum of \$50,000 is appropriated from the
84 Florida Homeowners' Construction Recovery Fund to the Department
85 of Professional and Business Regulation for the relief of
86 Douglas and Gail Quinn for injuries and damages sustained.

87 Section 4. The Chief Financial Officer is directed to draw

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88 a warrant in favor of Douglas and Gail Quinn in the sum of
89 \$50,000 upon funds of the Department of Business and
90 Professional Regulation in the State Treasury and to pay the
91 same out of such funds in the State Treasury.

92 Section 5. The amount paid by the Department of Business
93 and Professional Regulation and the amount awarded under this
94 act are intended to provide the sole compensation for all
95 present and future claims arising out of the factual situation
96 described in this act which resulted in injuries and damages to
97 Douglas and Gail Quinn. The total amount paid for attorney fees
98 relating to this claim may not exceed 25 percent of the total
99 amount awarded under this act.

100 Section 6. This act shall take effect upon becoming a law.