

By Senator Montford

3-00123A-19

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1 A bill to be entitled
2 An act for the relief of Shuler Limited Partnership by
3 the Florida Forest Service of the Department of
4 Agriculture and Consumer Services, formerly known as
5 the Division of Forestry, and the Board of Trustees of
6 the Internal Improvement Trust Fund; providing for an
7 appropriation to compensate Shuler Limited Partnership
8 for costs and fees and for damages sustained to 835
9 acres of its timber as a result of the negligence,
10 negligence per se, and gross negligence of employees
11 of the Florida Forest Service and their violation of
12 ch. 590, F.S.; providing a limitation on the payment
13 of attorney fees; providing an effective date.
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15 WHEREAS, the Board of Trustees of the Internal Improvement
16 Trust Fund, hereinafter referred to as the "board," is the owner
17 of an approximately 3,267-acre property located within Tate's
18 Hell State Forest in Franklin County and which is hereinafter
19 referred to as the "prescribed burn area," and

20 WHEREAS, under chapter 590, Florida Statutes, the Florida
21 Forest Service of the Department of Agriculture and Consumer
22 Services, formerly known as the Division of Forestry and
23 hereinafter referred to as the "forest service," is responsible
24 for managing Tate's Hell State Forest, including the prescribed
25 burn area, for the board, and

26 WHEREAS, Shuler Limited Partnership is the owner of an
27 approximately 2,182-acre property, hereinafter referred to as
28 "Shuler's Pasture," located west of the prescribed burn area and
29 separated from the prescribed burn area by Cash Creek, and

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30 WHEREAS, on April 9, 2008, the forest service conducted a
31 prescribed burn in the prescribed burn area, but before the fire
32 was completely extinguished, an ember from the smoldering fire
33 drifted onto Shuler's Pasture, causing a fire there that
34 destroyed 835 acres of trees, and

35 WHEREAS, Shuler Limited Partnership filed suit in the
36 Second Judicial Circuit in and for Franklin County, and a jury
37 returned a verdict in favor of Shuler Limited Partnership,
38 finding that the forest service was negligent, negligent per se,
39 and grossly negligent in the conduct of the prescribed burn,
40 that the burn was conducted in violation of chapter 590, Florida
41 Statutes, and that the board was vicariously liable for the
42 forest service's conduct of the prescribed burn, and

43 WHEREAS, the jury awarded \$741,496 in damages and \$28,997
44 in costs and fees to Shuler Limited Partnership, for a total sum
45 of \$770,493, and

46 WHEREAS, the forest service and the board appealed the jury
47 verdict, but the First District Court of Appeal upheld the
48 verdict, and

49 WHEREAS, the forest service and the board have paid
50 \$100,000 to Shuler Limited Partnership pursuant to the statutory
51 limits of liability in s. 768.28, Florida Statutes, applicable
52 at the time, and a total of \$670,493 remains to be paid, NOW,
53 THEREFORE,

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

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

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59 Section 2. There is appropriated from the General Revenue
60 Fund to the Department of Agriculture and Consumer Services and
61 to the Board of Trustees of the Internal Improvement Trust Fund
62 the sum of \$670,493 for the relief of Shuler Limited Partnership
63 for the damages caused by, and for the costs and fees incurred
64 as the result of, the negligence, negligence per se, and gross
65 negligence of employees of the Florida Forest Service of the
66 Department of Agriculture and Consumer Services and their
67 violation of chapter 590, Florida Statutes.

68 Section 3. The Chief Financial Officer is directed to draw
69 a warrant in the sum of \$670,493, payable to Shuler Limited
70 Partnership, as compensation for the damages to Shuler Limited
71 Partnership caused by, and for the costs and fees incurred as
72 the result of, the negligence, negligence per se, and gross
73 negligence of employees of the Florida Forest Service of the
74 Department of Agriculture and Consumer Services and their
75 violation of chapter 590, Florida Statutes.

76 Section 4. The amount paid by the Florida Forest Service of
77 the Department of Agriculture and Consumer Services and the
78 Board of Trustees of the Internal Improvement Trust Fund
79 pursuant to s. 768.28, Florida Statutes, and the amount awarded
80 under this act are intended to provide the sole compensation for
81 all present and future claims arising out of the factual
82 situation described in this act which resulted in damages to
83 Shuler Limited Partnership. The total amount paid for attorney
84 fees relating to this claim may not exceed 25 percent of the
85 total amount awarded under this act.

86 Section 5. This act shall take effect upon becoming a law.