

By Senator Stewart

13-00551B-18

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1                                   A bill to be entitled  
2       An act relating to nursing home facilities; amending  
3       s. 400.0238, F.S.; revising the division of an award  
4       of punitive damages between a claimant and the Quality  
5       of Long-Term Care Facility Improvement Trust Fund;  
6       revising provisions related to punitive damages to  
7       include provisions for cases that are settled;  
8       amending s. 400.0239, F.S.; authorizing the trust fund  
9       to expend certain funds on a grant program  
10      administered by the Agency for Health Care  
11      Administration to provide funding to reimburse nursing  
12      home facilities for the cost of purchasing,  
13      installing, repairing, replenishing, or improving  
14      certain onsite operational generators and certain  
15      onsite supplies of fuel; creating s. 400.0627, F.S.;  
16      providing legislative intent; requiring the agency,  
17      within any funds appropriated for that purpose, to  
18      reimburse nursing home facilities for the cost of  
19      purchasing, installing, repairing, replenishing, or  
20      improving certain onsite operational generators and  
21      certain onsite supplies of fuel; providing eligibility  
22      criteria for such reimbursement; specifying that such  
23      reimbursement may not exceed the amount of  
24      appropriated funds and must be made on a first-come,  
25      first-served basis; providing construction;  
26      authorizing the agency to adopt rules; providing for  
27      the appropriation of general revenue and trust fund  
28      monies to the agency for the purpose of reimbursing  
29      eligible nursing home facilities as provided in the

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30 act, subject to legislative appropriation; providing  
31 an effective date.

32  
33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Subsection (4) of section 400.0238, Florida  
36 Statutes, is amended to read:

37 400.0238 Punitive damages; limitation.-

38 (4) Notwithstanding any other law to the contrary, if a  
39 claimant has received a final judgment for the amount of  
40 punitive damages or there is a settlement of a case in which the  
41 claimant was granted leave to amend his or her complaint to add  
42 a claim for punitive damages, the punitive award must awarded  
43 pursuant to this section shall be equally divided between with  
44 the claimant receiving 40 percent of the award and the Quality  
45 of Long-Term Care Facility Improvement Trust Fund receiving 60  
46 percent of the award, in accordance with the following  
47 provisions:

48 (a) In the event of a judgment, the clerk of the court  
49 shall transmit a copy of the jury verdict to the Chief Financial  
50 Officer by certified mail. In the final judgment, the court  
51 shall order the percentages of the award, payable as provided in  
52 this subsection. In the event of a settlement, the parties shall  
53 transmit by certified mail to the Chief Financial Officer a  
54 statement of the proportionate share due to the Quality of Long-  
55 Term Care Facility Improvement Trust Fund herein.

56 (b) A settlement agreement entered into between the  
57 original parties to the action after a verdict has been returned  
58 must provide a proportionate share payable to the Quality of

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59 Long-Term Care Facility Improvement Trust Fund specified herein.  
60 For purposes of this paragraph, a proportionate share is a 75-  
61 percent ~~50-percent~~ share of that percentage of the settlement  
62 amount which the punitive damages portion of the verdict bore to  
63 the total of the compensatory and punitive damages in the  
64 verdict.

65 (c) The Department of Financial Services shall collect or  
66 cause to be collected all payments due the state under this  
67 section. Such payments are made to the Chief Financial Officer  
68 and deposited in the appropriate fund specified in this  
69 subsection.

70 (d) If the full amount of punitive damages awarded cannot  
71 be collected, the claimant and the other recipient designated  
72 pursuant to this subsection are each entitled to a proportionate  
73 share of the punitive damages collected.

74 Section 2. Paragraph (h) is added to subsection (2) of  
75 section 400.0239, Florida Statutes, to read:

76 400.0239 Quality of Long-Term Care Facility Improvement  
77 Trust Fund.—

78 (2) Expenditures from the trust fund shall be allowable for  
79 direct support of the following:

80 (h) A grant program administered by the agency to provide  
81 funding to reimburse nursing home facilities for the cost of  
82 purchasing, installing, repairing, replenishing, or improving  
83 certain onsite operational generators and certain onsite  
84 supplies of fuel.

85 Section 3. Section 400.0627, Florida Statutes, is created  
86 to read:

87 400.0627 Emergency power.—

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88       (1) It is the intent of the Legislature to encourage each  
89 nursing home facility in this state to have the necessary  
90 emergency power equipment to provide for the health and safety  
91 of its residents and residents of other facilities who may be  
92 temporarily placed in the facility due to emergency evacuations.

93       (2) To the extent that funds are available, the agency  
94 shall reimburse an eligible nursing home facility for the costs  
95 of purchasing, installing, repairing, replenishing, or improving  
96 an onsite operational generator and an onsite supply of fuel  
97 sufficient to sustain the generator for at least 96 hours during  
98 a power outage. A nursing home facility is eligible for  
99 reimbursement if the facility meets all of the following  
100 requirements:

101       (a) Has not been cited for a class I deficiency within the  
102 30 months before the submission of an application for  
103 reimbursement.

104       (b) Is not located within a hurricane evacuation zone or  
105 the 100-year flood plain of the county in which it is located.

106       (c) Has the capacity, as determined by the agency, to house  
107 evacuated residents from other facilities during an emergency.

108       (d) Agrees to receive residents who are transferred from  
109 other facilities during an emergency.

110       (3) Reimbursement to a facility under subsection (2) is  
111 available to the extent that funds are specifically appropriated  
112 for such reimbursements and must be made available on a first-  
113 come, first-served basis.

114       (4) This section may not be construed to impose any  
115 requirement on a nursing home facility.

116       (5) The agency may adopt rules necessary to administer this

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117 section.

118       Section 4. Subject to legislative appropriation for the  
119 2018-2019 fiscal year, nonrecurring funds from the General  
120 Revenue Fund, from the Quality of Long-Term Care Facility  
121 Improvement Trust Fund, and from the Medical Care Trust Fund  
122 shall be appropriated to the Agency for Health Care  
123 Administration for the purpose of reimbursing eligible nursing  
124 home facilities as provided in this act for costs incurred  
125 during the 2017-2018 fiscal year for purchasing, installing,  
126 repairing, replenishing, or improving emergency power equipment.  
127 Each provider's Medicaid rate as of October 1, 2018, will be  
128 increased by the cost of the emergency power equipment incurred  
129 divided by 10 months of Medicaid days. Any rate caps or freezes  
130 do not apply to this increase in Medicaid rate.

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