

By Senator Montford

3-00075-15

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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 damages sustained to 835 acres of its timber as a
9 result of the negligence, negligence per se, and gross
10 negligence of employees of the Florida Forest Service
11 and their violation of s. 590.13, Florida Statutes;
12 providing a limitation on the payment of fees and
13 costs; providing an effective date.

14
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, which property is
19 hereinafter referred to as the "prescribed burn area," and

20 WHEREAS, pursuant to ch. 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 just west of the prescribed burn area,
29 which is separated from the prescribed burn area by Cash Creek,

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30 and

31 WHEREAS, on April 9, 2008, the forest service conducted a
32 prescribed burn in the prescribed burn area, but before the fire
33 was completely extinguished, an ember from the smoldering fire
34 drifted onto Shuler's Pasture destroying 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 and
40 that the burn was conducted in violation of s. 590.13, Florida
41 Statutes, and

42 WHEREAS, the forest service and the board appealed the jury
43 verdict and award of damages in the amount of \$741,496, which
44 was upheld by the First District Court of Appeal, and

45 WHEREAS, the forest service and the board have paid
46 \$100,000 to Shuler Limited Partnership pursuant to the
47 applicable statutory limits of liability in s. 768.28, Florida
48 Statutes, and a total of \$670,493, consisting of \$641,496 in
49 damages and \$28,997 in costs, remains to be paid, NOW,
50 THEREFORE,

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. The facts stated in the preamble to this act are
55 found and declared to be true.

56 Section 2. There is appropriated from the General Revenue
57 Fund to the Department of Agriculture and Consumer Services the
58 sum of \$670,493 for the relief of Shuler Limited Partnership for

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59 damages caused by the negligence, negligence per se and gross
60 negligence of employees of the Florida Forest Service and their
61 violation of s. 590.13, Florida Statutes.

62 Section 3. The Chief Financial Officer is directed to draw
63 a warrant in the sum of \$670,493, payable to Shuler Limited
64 Partnership, as compensation for the damages to Shuler Limited
65 Partnership caused by the negligence, negligence per se and
66 gross negligence of employees of the Florida Forest Service and
67 their violation of s. 590.13, Florida Statutes.

68 Section 4. The amount paid by the Florida Forest Service of
69 the Department of Agriculture and Consumer Services pursuant to
70 s. 768.28, Florida Statutes, and the amount awarded under this
71 act are intended to provide the sole compensation for all
72 present and future claims arising out of the factual situation
73 described in this act which resulted in damages to Shuler
74 Limited Partnership. The total amount paid for attorney's fees,
75 lobbying fees, costs, and similar expenses relating to this
76 claim may not exceed 25 percent of the total amount awarded
77 under this act.

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