

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Gaetz offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 4177 and 4178, insert:

5 Section 3. Subsection (4) of section 400.0238, Florida
6 Statutes, are amended to read:

7 400.0238 Punitive damages; limitation.—

8 (4) Notwithstanding any other law to the contrary, if a
9 claimant has received a final judgment for the amount of
10 punitive damages or there is a settlement of a case in which the
11 claimant was granted leave to amend his or her complaint to add
12 a claim for punitive damages, the punitive award awarded
13 pursuant to this section shall be equally divided, before any
14 distribution to the claimant's counsel for fees or costs,
15 between the claimant and the Quality of Long-Term Care Facility

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16 Improvement Trust Fund, in accordance with the following
17 provisions:

18 (a) In the event of a judgment, the clerk of the court
19 shall transmit a copy of the jury verdict to the Chief Financial
20 Officer by certified mail. In the final judgment, the court
21 shall order the percentages of the award, payable as provided
22 herein. In the event of a settlement, the parties shall transmit
23 by certified mail to the Chief Financial Officer a statement of
24 the proportionate share due to the Quality of Long-Term Care
25 Facility Improvement Trust Fund.

26 (b) A settlement agreement entered into between the
27 original parties to the action after a verdict has been returned
28 must provide a proportionate share payable to the Quality of
29 Long-Term Care Facility Improvement Trust Fund specified herein.
30 For purposes of this paragraph, a proportionate share is a 50-
31 percent share of that percentage of the settlement amount which
32 the punitive damages portion of the verdict bore to the total of
33 the compensatory and punitive damages in the verdict.

34 (c) For a settlement agreement entered into between the
35 parties to the action, at any time after a claimant is permitted
36 by the court to amend the agreement to add a count for punitive
37 damages, but before a final judgment on the issue, 50 percent of
38 the total settlement amount shall be the punitive award. The
39 punitive award shall be equally divided, before any distribution
40 to the claimant's counsel for fees or costs, between the
41 claimant and the Quality of Long-Term Care Facility Improvement
42 Trust Fund. The amount of the punitive award and the allocation
43 of that award provided for in this subsection may not be altered

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44 in any way by agreement of the parties after the claimant has
45 been granted leave to amend his or her complaint to include a
46 claim for punitive damages.

47 (d) Settlement of a claim before a verdict by a defendant
48 in which a claimant was permitted at any time to amend the claim
49 to add a count for punitive damages is not an admission of
50 liability for conduct described in subsection (2) and is not
51 governed by this section.

52 (e) ~~(e)~~ The Department of Financial Services shall collect
53 or cause to be collected all payments due the state under this
54 section. Such payments are made to the Chief Financial Officer
55 and deposited in the appropriate fund specified in this
56 subsection.

57 (f) ~~(d)~~ If the full amount of punitive damages awarded
58 cannot be collected, the claimant and the other recipient
59 designated pursuant to this subsection are each entitled to a
60 proportionate share of the punitive damages collected.

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T I T L E A M E N D M E N T

65 Remove line 23 and insert:
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67 deficiencies; amending s. 400.23, F.S.; providing additional
68 conditions for settlements involving claims for punitive
69 damages; providing applicability; providing an