

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.

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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, 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

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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,
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 timber,
35 and

36 WHEREAS, Shuler Limited Partnership filed suit in the
37 Second Judicial Circuit in and for Franklin County and a jury
38 returned a verdict in favor of Shuler Limited Partnership,
39 finding that the forest service was negligent, negligent per se,
40 and grossly negligent in the conduct of the prescribed burn and
41 that the burn was conducted in violation of s. 590.13, Florida
42 Statutes, and

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

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

51 THEREFORE,

52

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

54

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

57 Section 2. There is appropriated from the General Revenue
 58 Fund to the Department of Agriculture and Consumer Services the
 59 sum of \$670,493 for the relief of Shuler Limited Partnership for
 60 damages caused by the negligence, negligence per se, and gross
 61 negligence of employees of the Florida Forest Service and their
 62 violation of s. 590.13, Florida Statutes.

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

69 Section 4. The amount paid by the Florida Forest Service
 70 of the Department of Agriculture and Consumer Services pursuant
 71 to s. 768.28, Florida Statutes, and the amount awarded under
 72 this act are intended to provide the sole compensation for all
 73 present and future claims arising out of the factual situation
 74 described in this act which resulted in damages to Shuler
 75 Limited Partnership. The total amount paid for attorney fees,

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76 lobbying fees, costs, and similar expenses relating to this
77 claim may not exceed 25 percent of the total amount awarded
78 under this act.

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