

By Senator Montford

3-00164A-16

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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 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

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, the
40 burn was conducted in violation of s. 590.13, Florida Statutes,
41 and the board was vicariously liable for the forest service's
42 conduct of the prescribed burn, 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:

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

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59 from the General Revenue Fund to the Board of Trustees of the
60 Internal Improvement Trust Fund the sum of \$670,493 for the
61 relief of Shuler Limited Partnership for damages caused by the
62 negligence, negligence per se, and gross negligence of employees
63 of the Florida Forest Service and their violation of s. 590.13,
64 Florida Statutes.

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

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

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