2019

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 costs and fees and for damages sustained to 835
9	acres of its timber as a result of the negligence,
10	negligence per se, and gross negligence of employees
11	of the Florida Forest Service and their violation of
12	ch. 590, F.S.; providing a limitation on the payment
13	of attorney fees; 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 and which is hereinafter
19	referred to as the "prescribed burn area," and
20	WHEREAS, under chapter 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
	Page 1 of 4

Page 1 of 4

CODING: Words stricken are deletions; words underlined are additions.

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 west of the prescribed burn area and 29 separated from the prescribed burn area by Cash Creek, and

30 WHEREAS, on April 9, 2008, the forest service conducted a 31 prescribed burn in the prescribed burn area, but before the fire 32 was completely extinguished, an ember from the smoldering fire 33 drifted onto Shuler's Pasture, causing a fire there that 34 destroyed 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, that the burn was conducted in violation of chapter 590, Florida 40 Statutes, and that the board was vicariously liable for the 41 42 forest service's conduct of the prescribed burn, and

WHEREAS, the jury awarded \$741,496 in damages and \$28,997
in costs and fees to Shuler Limited Partnership, for a total sum
of \$770,493, and

WHEREAS, the forest service and the board appealed the jury verdict, but the First District Court of Appeal upheld the verdict, and

WHEREAS, the forest service and the board have paid
\$100,000 to Shuler Limited Partnership pursuant to the statutory

Page 2 of 4

CODING: Words stricken are deletions; words underlined are additions.

2019

2019

51	limits of liability in s. 768.28, Florida Statutes, applicable
52	at the time, and a total of \$670,493 remains to be paid, NOW,
53	THEREFORE,
54	
55	Be It Enacted by the Legislature of the State of Florida:
56	
57	Section 1. The facts stated in the preamble to this act
58	are found and declared to be true.
59	Section 2. There is appropriated from the General Revenue
60	Fund to the Department of Agriculture and Consumer Services and
61	to the Board of Trustees of the Internal Improvement Trust Fund
62	the sum of \$670,493 for the relief of Shuler Limited Partnership
63	for the damages caused by, and for the costs and fees incurred
64	as the result of, the negligence, negligence per se, and gross
65	negligence of employees of the Florida Forest Service of the
66	Department of Agriculture and Consumer Services and their
67	violation of chapter 590, Florida Statutes.
68	Section 3. The Chief Financial Officer is directed to draw
69	a warrant in the sum of \$670,493, payable to Shuler Limited
70	Partnership, as compensation for the damages to Shuler Limited
71	Partnership caused by, and for the costs and fees incurred as
72	the result of, the negligence, negligence per se, and gross
73	negligence of employees of the Florida Forest Service of the
74	Department of Agriculture and Consumer Services and their
75	violation of chapter 590, Florida Statutes.

Page 3 of 4

CODING: Words stricken are deletions; words underlined are additions.

2019

76	Section 4. The amount paid by the Florida Forest Service
77	of the Department of Agriculture and Consumer Services and the
78	Board of Trustees of the Internal Improvement Trust Fund
79	pursuant to s. 768.28, Florida Statutes, and the amount awarded
80	under this act are intended to provide the sole compensation for
81	all present and future claims arising out of the factual
82	situation described in this act which resulted in damages to
83	Shuler Limited Partnership. The total amount paid for attorney
84	fees relating to this claim may not exceed 25 percent of the
85	total amount awarded under this act.
86	Section 5. This act shall take effect upon becoming a law.

Page 4 of 4

CODING: Words stricken are deletions; words <u>underlined</u> are additions.