

By Senator Book

32-01478-20

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1 A bill to be entitled
2 An act relating to punitive damages; amending ss.
3 400.0238 and 429.298, F.S.; removing provisions
4 requiring that a portion of the punitive damages
5 awarded for claims brought under part II of ch. 400,
6 F.S., relating to nursing homes, and part I of ch.
7 429, F.S., relating to assisted living facilities, be
8 deposited into the Quality of Long-Term Care Facility
9 Improvement Trust Fund; amending s. 400.0239, F.S.;
10 conforming a provision to changes made by the act;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (4) of section 400.0238, Florida
16 Statutes, is amended to read:

17 400.0238 Punitive damages; limitation.-

18 ~~(4) Notwithstanding any other law to the contrary, the~~
19 ~~amount of punitive damages awarded pursuant to this section~~
20 ~~shall be equally divided between the claimant and the Quality of~~
21 ~~Long Term Care Facility Improvement Trust Fund, in accordance~~
22 ~~with the following provisions:~~

23 ~~(a) The clerk of the court shall transmit a copy of the~~
24 ~~jury verdict to the Chief Financial Officer by certified mail.~~
25 ~~In the final judgment, the court shall order the percentages of~~
26 ~~the award, payable as provided herein.~~

27 ~~(b) A settlement agreement entered into between the~~
28 ~~original parties to the action after a verdict has been returned~~
29 ~~must provide a proportionate share payable to the Quality of~~

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30 ~~Long Term Care Facility Improvement Trust Fund specified herein.~~
31 ~~For purposes of this paragraph, a proportionate share is a 50-~~
32 ~~percent share of that percentage of the settlement amount which~~
33 ~~the punitive damages portion of the verdict bore to the total of~~
34 ~~the compensatory and punitive damages in the verdict.~~

35 ~~(c) The Department of Financial Services shall collect or~~
36 ~~cause to be collected all payments due the state under this~~
37 ~~section. Such payments are made to the Chief Financial Officer~~
38 ~~and deposited in the appropriate fund specified in this~~
39 ~~subsection.~~

40 ~~(d) If the full amount of punitive damages awarded cannot~~
41 ~~be collected, the claimant and the other recipient designated~~
42 ~~pursuant to this subsection are each entitled to a proportionate~~
43 ~~share of the punitive damages collected.~~

44 Section 2. Subsection (4) of section 429.298, Florida
45 Statutes, is amended to read:

46 429.298 Punitive damages; limitation.-

47 ~~(4) Notwithstanding any other law to the contrary, the~~
48 ~~amount of punitive damages awarded pursuant to this section~~
49 ~~shall be equally divided between the claimant and the Quality of~~
50 ~~Long Term Care Facility Improvement Trust Fund, in accordance~~
51 ~~with the following provisions:~~

52 ~~(a) The clerk of the court shall transmit a copy of the~~
53 ~~jury verdict to the Chief Financial Officer by certified mail.~~
54 ~~In the final judgment, the court shall order the percentages of~~
55 ~~the award, payable as provided herein.~~

56 ~~(b) A settlement agreement entered into between the~~
57 ~~original parties to the action after a verdict has been returned~~
58 ~~must provide a proportionate share payable to the Quality of~~

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59 ~~Long Term Care Facility Improvement Trust Fund specified herein.~~
60 ~~For purposes of this paragraph, a proportionate share is a 50-~~
61 ~~percent share of that percentage of the settlement amount which~~
62 ~~the punitive damages portion of the verdict bore to the total of~~
63 ~~the compensatory and punitive damages in the verdict.~~

64 ~~(c) The Department of Financial Services shall collect or~~
65 ~~cause to be collected all payments due the state under this~~
66 ~~section. Such payments are made to the Chief Financial Officer~~
67 ~~and deposited in the appropriate fund specified in this~~
68 ~~subsection.~~

69 ~~(d) If the full amount of punitive damages awarded cannot~~
70 ~~be collected, the claimant and the other recipient designated~~
71 ~~pursuant to this subsection are each entitled to a proportionate~~
72 ~~share of the punitive damages collected.~~

73 Section 3. Subsection (1) of section 400.0239, Florida
74 Statutes, is amended to read:

75 400.0239 Quality of Long-Term Care Facility Improvement
76 Trust Fund.—

77 (1) There is created within the Agency for Health Care
78 Administration a Quality of Long-Term Care Facility Improvement
79 Trust Fund to support activities and programs directly related
80 to improvement of the care of nursing home and assisted living
81 facility residents. The trust fund shall be funded ~~through~~
82 ~~proceeds generated pursuant to ss. 400.0238 and 429.298,~~ through
83 funds specifically appropriated by the Legislature, through
84 gifts, endowments, and other charitable contributions allowed
85 under federal and state law, and through federal nursing home
86 civil monetary penalties collected by the Centers for Medicare
87 and Medicaid Services and returned to the state. These funds

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88 must be utilized in accordance with federal requirements.

89 Section 4. This act shall take effect July 1, 2020.