

By Senator Rodrigues

27-01677-21

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1                                   A bill to be entitled  
2       An act relating to the Quality of Long-Term Care  
3       Facility Improvement Trust Fund; amending ss.  
4       400.0238, 400.0239, and 429.298, F.S.; removing  
5       provisions requiring that a portion of the punitive  
6       damages awarded for claims brought under part II of  
7       ch. 400, F.S., relating to nursing homes, and part I  
8       of ch. 429, F.S., relating to assisted living  
9       facilities, be deposited into the Quality of Long-Term  
10      Care Facility Improvement Trust Fund; providing an  
11      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 (1) of section 400.0239, Florida  
45 Statutes, is amended to read:

46 400.0239 Quality of Long-Term Care Facility Improvement  
47 Trust Fund.—

48 (1) There is created within the Agency for Health Care  
49 Administration a Quality of Long-Term Care Facility Improvement  
50 Trust Fund to support activities and programs directly related  
51 to improvement of the care of nursing home and assisted living  
52 facility residents. The trust fund shall be funded ~~through~~  
53 ~~proceeds generated pursuant to ss. 400.0238 and 429.298,~~ through  
54 funds specifically appropriated by the Legislature, through  
55 gifts, endowments, and other charitable contributions allowed  
56 under federal and state law, and through federal nursing home  
57 civil monetary penalties collected by the Centers for Medicare  
58 and Medicaid Services and returned to the state. These funds

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59 must be utilized in accordance with federal requirements.

60 Section 3. Subsection (4) of section 429.298, Florida  
61 Statutes, is amended to read:

62 429.298 Punitive damages; limitation.-

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

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

72 ~~(b) A settlement agreement entered into between the~~  
73 ~~original parties to the action after a verdict has been returned~~  
74 ~~must provide a proportionate share payable to the Quality of~~  
75 ~~Long Term Care Facility Improvement Trust Fund specified herein.~~  
76 ~~For purposes of this paragraph, a proportionate share is a 50-~~  
77 ~~percent share of that percentage of the settlement amount which~~  
78 ~~the punitive damages portion of the verdict bore to the total of~~  
79 ~~the compensatory and punitive damages in the verdict.~~

80 ~~(c) The Department of Financial Services shall collect or~~  
81 ~~cause to be collected all payments due the state under this~~  
82 ~~section. Such payments are made to the Chief Financial Officer~~  
83 ~~and deposited in the appropriate fund specified in this~~  
84 ~~subsection.~~

85 ~~(d) If the full amount of punitive damages awarded cannot~~  
86 ~~be collected, the claimant and the other recipient designated~~  
87 ~~pursuant to this subsection are each entitled to a proportionate~~

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88 ~~share of the punitive damages collected.~~

89 Section 4. This act shall take effect July 1, 2021.