

By Senator Montford

3-00123A-19

201936\_\_

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

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

3-00123A-19

201936\_\_

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,  
40 that the burn was conducted in violation of chapter 590, Florida  
41 Statutes, and that the board was vicariously liable for the  
42 forest service's conduct of the prescribed burn, and

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

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

49 WHEREAS, the forest service and the board have paid  
50 \$100,000 to Shuler Limited Partnership pursuant to the statutory  
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 are  
58 found and declared to be true.

3-00123A-19

201936\_\_

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.

76           Section 4. The amount paid by the Florida Forest Service of  
77 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.