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LEGISLATIVE ACTION

Senate

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House

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Floor: 1/RE/2R

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04/30/2019 11:17 AM

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Senator Hutson moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 57.112, Florida Statutes, is created to
read:

57.112 Attorney fees and costs and damages; preempted local
actions.—

(1) As used in this section, the term "attorney fees and
costs" means the reasonable and necessary attorney fees and
costs incurred for all preparations, motions, hearings, trials,



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12 and appeals in a proceeding.

13 (2) If a civil action is filed against a local government
14 to challenge the adoption or enforcement of a local ordinance on
15 the grounds that it is expressly preempted by the State
16 Constitution or by state law, the court shall assess and award
17 reasonable attorney fees and costs and damages to the prevailing
18 party.

19 (3) Attorney fees and costs may not be awarded pursuant to
20 this section if:

21 (a) The governing body of a local governmental entity
22 receives written notice that an ordinance that has been publicly
23 noticed or adopted is expressly preempted by the State
24 Constitution or state law; and

25 (b) The governing body of the local governmental entity
26 withdraws the proposed ordinance within 30 days; or, in the case
27 of an adopted ordinance, the governing body of a local
28 government notices an intent to repeal the ordinance within 30
29 days of receipt of the notice and repeals the ordinance within
30 30 days thereafter.

31 (4) The provisions in this section are supplemental to all
32 other sanctions or remedies available under law or court rule.

33 (5) This section does not apply to local ordinances adopted
34 pursuant to part II of chapter 163, s. 553.73, or s. 633.202.

35 (6) This section is intended to be prospective in nature
36 and shall apply only to cases commenced on or after July 1,
37 2019.

38 Section 2. This act shall take effect July 1, 2019.

39
40 ===== T I T L E A M E N D M E N T =====



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41 And the title is amended as follows:

42 Delete everything before the enacting clause
43 and insert:

44 A bill to be entitled

45 An act relating to attorney fees and costs; creating
46 s. 57.112, F.S.; defining the term "attorney fees and
47 costs"; providing for the award of attorney fees and
48 costs and damages in civil actions challenging local
49 ordinances as being preempted by the State
50 Constitution or state law; prohibiting an award of
51 attorney fees and costs under certain circumstances;
52 providing construction; providing applicability;
53 providing an effective date.