

By Senator Deutch

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1 A bill to be entitled
2 An act relating to impact fees; amending s. 163.31801,
3 F.S.; authorizing counties, municipalities, and
4 special districts to exempt certain affordable housing
5 from payment of impact fees under certain
6 circumstances; providing an effective date.

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8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Section 163.31801, Florida Statutes, is amended
11 to read:

12 163.31801 Impact fees; short title; intent; definitions;
13 ordinances levying impact fees; affordable housing exemption.—

14 (1) This section may be cited as the "Florida Impact Fee
15 Act."

16 (2) The Legislature finds that impact fees are an important
17 source of revenue for a local government to use in funding the
18 infrastructure necessitated by new growth. The Legislature
19 further finds that impact fees are an outgrowth of the home rule
20 power of a local government to provide certain services within
21 its jurisdiction. Due to the growth of impact fee collections
22 and local governments' reliance on impact fees, it is the intent
23 of the Legislature to ensure that, when a county or municipality
24 adopts an impact fee by ordinance or a special district adopts
25 an impact fee by resolution, the governing authority complies
26 with this section.

27 (3) An impact fee adopted by ordinance of a county or
28 municipality or by resolution of a special district must, at
29 minimum:

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30 (a) Require that the calculation of the impact fee be based
31 on the most recent and localized data.

32 (b) Provide for accounting and reporting of impact fee
33 collections and expenditures. If a local governmental entity
34 imposes an impact fee to address its infrastructure needs, the
35 entity shall account for the revenues and expenditures of such
36 impact fee in a separate accounting fund.

37 (c) Limit administrative charges for the collection of
38 impact fees to actual costs.

39 (d) Require that notice be provided no less than 90 days
40 before the effective date of an ordinance or resolution imposing
41 a new or increased impact fee. A county or municipality is not
42 required to wait 90 days to decrease, suspend, or eliminate an
43 impact fee.

44 (4) Any county or municipality by ordinance or special
45 district by resolution may wholly or partially exempt housing
46 that is designed to be affordable, as defined in s. 420.0004(3),
47 from the payment of any impact fee, provided the county,
48 municipality, or special district requires the housing to be
49 affordable to the initial purchaser or renter and affordable to
50 any subsequent purchaser or renter for such period after
51 issuance of a certificate of occupancy as the county,
52 municipality, or special district deems appropriate.

53 (5)~~(4)~~ Audits of financial statements of local governmental
54 entities and district school boards which are performed by a
55 certified public accountant pursuant to s. 218.39 and submitted
56 to the Auditor General must include an affidavit signed by the
57 chief financial officer of the local governmental entity or
58 district school board stating that the local governmental entity

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59 or district school board has complied with this section.

60 (6)~~(5)~~ In any action challenging an impact fee, the
61 government has the burden of proving by a preponderance of the
62 evidence that the imposition or amount of the fee meets the
63 requirements of state legal precedent or this section. The court
64 may not use a deferential standard.

65 Section 2. This act shall take effect July 1, 2010.