

HB 7021

2011

1                   A bill to be entitled  
 2           An act relating to impact fees; reenacting s.  
 3           163.31801(5), F.S., relating to the burden of proof  
 4           required by the government in an action challenging an  
 5           impact fee; providing a legislative finding of important  
 6           state interest; providing for retroactive operation;  
 7           providing for an exception under specified circumstances;  
 8           providing an effective date.

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 10           WHEREAS, in 2009, the Florida Legislature enacted Chapter  
 11           2009-49, Laws of Florida, for important public purposes, and  
 12           WHEREAS, litigation has called into question the  
 13           constitutional validity of this important piece of legislation,  
 14           and

15           WHEREAS, the Legislature wishes to protect those that  
 16           relied on the changes made by Chapter 2009-49, Laws of Florida,  
 17           and to preserve the Florida Statutes intact and cure any  
 18           constitutional violation, NOW, THEREFORE,

19  
 20           Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. Subsection (5) of section 163.31801, Florida  
 23           Statutes, is reenacted to read:

24           163.31801 Impact fees; short title; intent; definitions;  
 25           ordinances levying impact fees.—

26           (5) In any action challenging an impact fee, the  
 27           government has the burden of proving by a preponderance of the  
 28           evidence that the imposition or amount of the fee meets the

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29 | requirements of state legal precedent or this section. The court  
30 | may not use a deferential standard.

31 |       Section 2. The Legislature finds that this act fulfills an  
32 | important state interest.

33 |       Section 3. This act shall take effect upon becoming a law,  
34 | and shall operate retroactively to July 1, 2009. If such  
35 | retroactive application is held by a court of last resort to be  
36 | unconstitutional, this act shall apply prospectively from the  
37 | date that this act becomes a law.