

By Senator Hutson

7-01360-19

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1 A bill to be entitled
2 An act relating to attorney fees and costs; creating
3 s. 57.112, F.S.; waiving the sovereign immunity of
4 local governments for liability for certain attorney
5 fees and costs; defining the term "attorney fees and
6 costs"; providing for award of attorney fees and costs
7 and damages in successful civil actions challenging
8 local ordinances as being preempted by the State
9 Constitution or state law; prohibiting an award of
10 attorney fees and costs under certain circumstances;
11 providing construction; providing applicability;
12 providing retroactive application; providing an
13 effective date.

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

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

19 57.112 Attorney fees and costs and damages; preempted local
20 actions.-

21 (1) In accordance with s. 13, Art. X of the State
22 Constitution, sovereign immunity for local governments is waived
23 for liability for attorney fees and costs awarded pursuant to
24 this section. There is no limit to the amount of attorney fees
25 and costs a court may award pursuant to this section.

26 (2) As used in this section, the term "attorney fees and
27 costs" means the reasonable and necessary attorney fees and
28 costs incurred for all preparations, motions, hearings, trials,
29 and appeals in a proceeding.

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30 (3) If a civil action is filed against a local government
31 to challenge the adoption or enforcement of a local ordinance on
32 the grounds that it is preempted by the State Constitution or by
33 state law, the court shall assess and award reasonable attorney
34 fees and costs and damages, including prejudgment interest and
35 costs, against the local government if the court determines that
36 the ordinance was preempted.

37 (4) Attorney fees and costs may not be awarded pursuant to
38 this section if the local government withdraws or repeals the
39 ordinance within 21 days after the earlier of:

40 (a) The local government's receipt of a written claim that
41 the ordinance, as proposed or adopted, is preempted by the State
42 Constitution or by state law; or

43 (b) A motion being filed seeking attorney fees and costs
44 pursuant to this section.

45 (5) The provisions in this section are supplemental to all
46 other sanctions or remedies available under law or court rule.

47 (6) This section does not apply to ordinances relating to
48 growth management.

49 Section 2. This act is intended to be remedial in nature
50 and applies retroactively to all cases pending or commenced on
51 or after July 1, 2019.

52 Section 3. This act shall take effect July 1, 2019.