

By the Committees on Community Affairs; and Judiciary; and  
Senator Hutson

578-03800-19

20191140c2

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

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Section 57.112, Florida Statutes, is created to  
16 read:

17 57.112 Attorney fees and costs and damages; preempted local  
18 actions.—

19 (1) As used in this section, the term "attorney fees and  
20 costs" means the reasonable and necessary attorney fees and  
21 costs incurred for all preparations, motions, hearings, trials,  
22 and appeals in a proceeding.

23 (2) If a civil action is filed against a local government  
24 to challenge the adoption or enforcement of a local ordinance on  
25 the grounds that it is expressly preempted by the State  
26 Constitution or by state law, the court shall assess and award  
27 reasonable attorney fees and costs and damages to the prevailing  
28 party.

29 (3) Attorney fees and costs may not be awarded pursuant to

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30 this section if the local government withdraws or repeals an  
31 ordinance that the court determined was preempted within 21 days  
32 after the earlier of:

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

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

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

40 (5) Unless an ordinance is preempted by s. 553.79(20), this  
41 section does not apply to ordinances relating to growth  
42 management.

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

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