

1 A bill to be entitled
 2 An act relating to attorney fees and costs; amending
 3 s. 57.105, F.S.; providing an exception to statute on
 4 award of attorney fees for actions involving claims
 5 that local legislation is preempted by the State
 6 Constitution or by state law; creating s. 57.112,
 7 F.S.; providing a definition; providing that local
 8 governments may enact legislation on any subject
 9 unless the subject matter is expressly preempted to
 10 the state; providing for award of attorney fees and
 11 costs in successful civil actions challenging local
 12 legislation as being preempted to the state; providing
 13 for withdrawal of a motion for attorney fees if the
 14 challenged legislation is withdrawn or corrected
 15 within a specified period after a motion for attorney
 16 fees is filed; providing an effective date.

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

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 20 Section 1. Subsection (4) of section 57.105, Florida
 21 Statutes, is amended to read:

22 57.105 Attorney ~~Attorney's~~ fee; sanctions for raising
 23 unsupported claims or defenses; exceptions; service of motions;
 24 damages for delay of litigation.—

25 (4) Except in those cases in which attorney fees or

26 | damages are sought as a result of a challenge to the adoption or
 27 | enforcement of a local ordinance that is preempted by the State
 28 | Constitution or state law, a motion by a party seeking sanctions
 29 | under this section must be served but may not be filed with or
 30 | presented to the court unless, within 21 days after service of
 31 | the motion, the challenged paper, claim, defense, contention,
 32 | allegation, or denial is not withdrawn or appropriately
 33 | corrected.

34 | Section 2. Section 57.112, Florida Statutes, is created to
 35 | read:

36 | 57.112 Attorney fees and costs; preempted local actions.-

37 | (1) As used in this section, the term "attorney fees and
 38 | costs" means the reasonable and necessary attorney fees and
 39 | costs incurred for all preparations, motions, hearings, trials,
 40 | and appeals in a proceeding.

41 | (2) The legislative body of each municipality and county
 42 | has the power to enact legislation concerning any subject matter
 43 | upon which the state Legislature may act, except any subject
 44 | expressly preempted to state government by the State
 45 | Constitution or by general law.

46 | (3) If a civil action is filed against a local government
 47 | to challenge the adoption or enforcement of a local ordinance
 48 | that is preempted by the State Constitution or by state law, the
 49 | court shall assess and award reasonable attorney fees and costs,
 50 | including prejudgment interest and costs, against the local

51 government if the court determines that the ordinance was
52 preempted.

53 (4) If the local government is provided notice by a party
54 asserting that the proposed ordinance is preempted by the State
55 Constitution or by state law within 21 days of publication of
56 the proposed ordinance, a motion for attorney fees and costs may
57 be filed with or presented to the court seeking attorney fees
58 and costs under this section upon final passage of the proposed
59 ordinance.

60 (5) A motion by a party seeking sanctions under this
61 section shall be withdrawn if within 21 days after service of
62 the motion, the challenged ordinance is withdrawn or
63 appropriately corrected.

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