

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 successful civil actions challenging
 6 local 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
 18 local 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 against the local
28 | government if the court determines that the subject of the
29 | ordinance was preempted.

30 | (3) Attorney fees and costs may not be awarded pursuant to
31 | this section if:

32 | (a) The governing body of a local government entity
33 | receives written notice that an ordinance that has been publicly
34 | noticed or adopted is expressly preempted by the State
35 | Constitution or state law; and

36 | (b) The governing body of the local government entity
37 | withdraws the ordinance from consideration or repeals the
38 | ordinance within 21 days after receiving the written notice.

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

41 | (5) Except for s. 553.79(20), this section does not apply
42 | to local government ordinances relating to growth management.

43 | (6) This section is intended to be remedial in nature and
44 | applies retroactively to all cases pending or commenced on or
45 | after July 1, 2019.

46 | Section 2. This act shall take effect July 1, 2019.