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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  
6           important state interest; providing for retroactive  
7           operation of the act; providing for an exception under  
8           specified circumstances; providing an effective date.

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10           WHEREAS, the Florida Legislature enacted House Bill 227 in  
11           2009 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 House Bill 227 and to preserve the  
17           Florida Statutes intact and cure any constitutional violation,  
18           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 government  
27           has the burden of proving by a preponderance of the evidence  
28           that the imposition or amount of the fee meets the requirements  
29           of state legal precedent or this section. The court may not use

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30 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.