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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.

9
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:

21
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.