

By Senator Bennett

21-00495-11

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

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 9 WHEREAS, the Florida Legislature enacted House Bill 227 in
 10 2009 for important public purposes, and

11 WHEREAS, litigation has called into question the
 12 constitutional validity of this important piece of legislation,
 13 and

14 WHEREAS, the Legislature wishes to protect those that
 15 relied on the changes made by House Bill 227 and to preserve the
 16 Florida Statutes intact and cure any constitutional violation,
 17 NOW, THEREFORE,

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

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 21 Section 1. Subsection (5) of section 163.31801, Florida
 22 Statutes, is reenacted to read:

23 163.31801 Impact fees; short title; intent; definitions;
 24 ordinances levying impact fees.—

25 (5) In any action challenging an impact fee, the government
 26 has the burden of proving by a preponderance of the evidence
 27 that the imposition or amount of the fee meets the requirements
 28 of state legal precedent or this section. The court may not use
 29 a deferential standard.

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30 Section 2. This act shall take effect upon becoming a law,
31 and shall operate retroactively to July 1, 2009. If such
32 retroactive application is held by a court of last resort to be
33 unconstitutional, this act shall apply prospectively from the
34 date that this act becomes a law.