

By the Committees on Rules; Community Affairs; and Judiciary;
and Senator Hutson

595-04846-19

20191140c3

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 civil actions challenging local
6 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 local
18 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 to the prevailing
28 party.

29 (3) Attorney fees and costs may not be awarded pursuant to

595-04846-19

20191140c3

30 this section if:

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

35 (b) The governing body of the local governmental entity
36 withdraws the ordinance from consideration or repeals the
37 ordinance within 60 days after receiving such written notice.

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

40 (5) This section does not apply to local ordinances adopted
41 pursuant to part II of chapter 163, s. 553.73, or s. 633.202.

42 Section 2. This act is intended to be remedial in nature
43 and applies retroactively to all cases pending or commenced on
44 or after July 1, 2019.

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