

CHAPTER 2011-149

Senate Bill No. 410

An act relating to impact fees; reenacting s. 163.31801(5), F.S., relating to the burden of proof required by the government in an action challenging an impact fee; providing a legislative finding of important state interest; providing for retroactive operation of the act; providing for an exception under specified circumstances; providing an effective date.

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

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

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

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

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

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

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

Section 2. The Legislature finds that this act fulfills an important state interest.

Section 3. This act shall take effect upon becoming a law, and shall operate retroactively to July 1, 2009. If such retroactive application is held by a court of last resort to be unconstitutional, this act shall apply prospectively from the date that this act becomes a law.

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.