

HB 1041

2015

1 A bill to be entitled

2 An act relating to strategic lawsuits against public
3 participation; amending s. 768.295, F.S.; removing a
4 short title; providing that legislative intent
5 includes the protection of specified forms of free
6 speech; defining the phrase "free speech in connection
7 with public issues"; conforming provisions to changes
8 made by the act; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 768.295, Florida Statutes, is amended
13 to read:

14 768.295 Strategic Lawsuits Against Public Participation
15 (SLAPP) suits by governmental entities prohibited.—

16 (1) ~~This section may be cited as the "Citizen~~
17 ~~Participation in Government Act."~~

18 ~~(2)~~ It is the intent of the Legislature to protect the
19 right of Florida's citizens to ~~exercise their rights~~ free speech
20 in connection with public issues, and their rights to peacefully
21 assemble, instruct their representatives, and petition for
22 redress of grievances before the various governmental entities
23 of this state as protected by the First Amendment to the United
24 States Constitution and s. 5, Art. I of the State Constitution.
25 The Legislature recognizes that "Strategic Lawsuits Against
26 Public Participation" or "SLAPP" suits, as they are typically

27 | called, have increased over the last 45 ~~30~~ years ~~and are mostly~~
 28 | ~~filed by private industry and individuals.~~ However, it is the
 29 | public policy of this state that a person or governmental entity
 30 | ~~government entities~~ not engage in SLAPP suits because such
 31 | actions are inconsistent with the constitutional right of
 32 | individuals to free speech in connection with public issues
 33 | ~~participate in the state's institutions of government.~~

34 | Therefore, the Legislature finds and declares that prohibiting
 35 | such lawsuits ~~by governmental entities~~ will preserve this
 36 | fundamental state policy, preserve the constitutional rights of
 37 | Florida citizens, and assure the continuation of representative
 38 | government in this state. It is the intent of the Legislature
 39 | that such lawsuits be expeditiously disposed of by the courts.

40 | (2) ~~(3)~~ As used in this section, the phrase or term:

41 | (a) "Free speech in connection with public issues" means
 42 | any written or oral statement made before a governmental entity
 43 | in connection with an issue under consideration or review by a
 44 | governmental entity, or made in an area that is open to the
 45 | public regarding an issue of public interest.

46 | (b) "Governmental entity" or "government entity" means the
 47 | state, including the executive, legislative, and the judicial
 48 | branches of government and the independent establishments of the
 49 | state, counties, municipalities, corporations primarily acting
 50 | as instrumentalities of the state, counties, or municipalities,
 51 | districts, authorities, boards, commissions, or any agencies
 52 | thereof.

53 (3)~~(4)~~ A person or ~~No~~ governmental entity in this state
 54 may not shall file or cause to be filed, through its employees
 55 or agents, any lawsuit, cause of action, claim, cross-claim, or
 56 counterclaim against another ~~a~~ person or entity without merit
 57 and solely because such person or entity has exercised the
 58 constitutional right of free speech in connection with a public
 59 issue, or right to peacefully assemble, ~~the right~~ to instruct
 60 representatives of government, or ~~and the right~~ to petition for
 61 redress of grievances before the various governmental entities
 62 of this state, as protected by the First Amendment to the United
 63 States Constitution and s. 5, Art. I of the State Constitution.

64 (4)~~(5)~~ A person or entity sued by a governmental entity or
 65 another person in violation of this section has a right to an
 66 expeditious resolution of a claim that the suit is in violation
 67 of this section. A person or entity may move ~~petition~~ the court
 68 for an order dismissing the action or granting final judgment in
 69 favor of that person or entity. The person or entity ~~petitioner~~
 70 may file a motion for summary judgment, together with
 71 supplemental affidavits, seeking a determination that the
 72 claimant's or governmental entity's lawsuit has been brought in
 73 violation of this section. The claimant or governmental entity
 74 shall thereafter file a ~~its~~ response and any supplemental
 75 affidavits. As soon as practicable, the court shall set a
 76 hearing on the ~~petitioner's~~ motion, which shall be held at the
 77 earliest possible time after the filing of the claimant's or
 78 governmental entity's response. The court may award, subject to

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79 | the limitations in s. 768.28, the party sued by a governmental
80 | entity or person actual damages arising from the governmental
81 | entity's or person's violation of this section ~~act~~. The court
82 | shall award the prevailing party reasonable attorney ~~attorney's~~
83 | fees and costs incurred in connection with a claim that an
84 | action was filed in violation of this section.

85 | (5)~~(6)~~ In any case filed by a governmental entity which is
86 | found by a court to be in violation of this section, the
87 | governmental entity shall report such finding and provide a copy
88 | of the court's order to the Attorney General no later than 30
89 | days after such order is final. The Attorney General shall
90 | report any violation of this section by a governmental entity to
91 | the Cabinet, the President of the Senate, and the Speaker of the
92 | House of Representatives. A copy of such report shall be
93 | provided to the affected governmental entity.

94 | Section 2. This act shall take effect July 1, 2015.