

By Senator Simmons

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20151312__

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 to
13 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 Participation~~
17 ~~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 of free
20 speech in connection with public issues, and their rights to
21 peacefully assemble, instruct their representatives, and
22 petition for redress of grievances before the various
23 governmental entities of this state as protected by the First
24 Amendment to the United States Constitution and s. 5, Art. I of
25 the State Constitution. ~~The Legislature recognizes that~~
26 ~~"Strategic Lawsuits Against Public Participation" or "SLAPP"~~
27 ~~suits, as they are typically called, have increased over the~~
28 ~~last 30 years and are mostly filed by private industry and~~
29 ~~individuals. However,~~ It is the public policy of this state that

10-00699B-15

20151312__

30 a person or governmental entity ~~government entities~~ not engage
31 in SLAPP suits because such actions are inconsistent with the
32 right of individuals to exercise their constitutional rights of
33 free speech in connection with public issues ~~participate in the~~
34 ~~state's institutions of government~~. Therefore, the Legislature
35 finds and declares that prohibiting such lawsuits as herein
36 described ~~by governmental entities~~ will preserve this
37 fundamental state policy, preserve the constitutional rights of
38 Florida citizens, and assure the continuation of representative
39 government in this state. It is the intent of the Legislature
40 that such lawsuits be expeditiously disposed of by the courts.

41 (2) ~~(3)~~ As used in this section, the phrase or term:

42 (a) "Free speech in connection with public issues" means
43 any written or oral statement that is protected under applicable
44 law and made before a governmental entity in connection with an
45 issue under consideration or review by a governmental entity, or
46 in connection with the publication of a play, movie broadcast,
47 or other similar work of art.

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

55 (3) ~~(4)~~ A person or ~~No~~ governmental entity in this state may
56 not shall file or cause to be filed, through its employees or
57 agents, any lawsuit, cause of action, claim, cross-claim, or
58 counterclaim against another ~~a~~ person or entity without merit

10-00699B-15

20151312__

59 and solely because such person or entity has exercised the
60 constitutional right of free speech in connection with a public
61 issue, or right to peacefully assemble, ~~the right~~ to instruct
62 representatives of government, ~~or and the right~~ to petition for
63 redress of grievances before the various governmental entities
64 of this state, as protected by the First Amendment to the United
65 States Constitution and s. 5, Art. I of the State Constitution.

66 (4)~~(5)~~ A person or entity sued by a governmental entity or
67 another person in violation of this section has a right to an
68 expeditious resolution of a claim that the suit is in violation
69 of this section. A person or entity may move ~~petition~~ the court
70 for an order dismissing the action or granting final judgment in
71 favor of that person or entity. The person or entity ~~petitioner~~
72 may file a motion for summary judgment, together with
73 supplemental affidavits, seeking a determination that the
74 claimant's or governmental entity's lawsuit has been brought in
75 violation of this section. The claimant or governmental entity
76 shall thereafter file a ~~its~~ response and any supplemental
77 affidavits. As soon as practicable, the court shall set a
78 hearing on the ~~petitioner's~~ motion, which shall be held at the
79 earliest possible time after the filing of the claimant's or
80 governmental entity's response. The court may award, subject to
81 the limitations in s. 768.28, the party sued by a governmental
82 entity or person actual damages arising from the governmental
83 entity's or person's violation of this section ~~act~~. The court
84 shall award the prevailing party reasonable attorney's fees and
85 costs incurred in connection with a claim that an action was
86 filed in violation of this section.

87 (5)~~(6)~~ In any case filed by a governmental entity which is

10-00699B-15

20151312__

88 found by a court to be in violation of this section, the
89 governmental entity shall report such finding and provide a copy
90 of the court's order to the Attorney General no later than 30
91 days after such order is final. The Attorney General shall
92 report any violation of this section by a governmental entity to
93 the Cabinet, the President of the Senate, and the Speaker of the
94 House of Representatives. A copy of such report shall be
95 provided to the affected governmental entity.

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