

By the Committee on Judiciary; and Senator Simmons

590-02155-15

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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 in Florida of Florida's citizens to exercise the their~~
20 ~~rights of free speech in connection with public issues, and the~~
21 ~~rights to peacefully assemble, instruct their representatives,~~
22 ~~and 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

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30 a person or governmental entity ~~government entities~~ not engage
31 in SLAPP suits because such actions are inconsistent with the
32 right of persons ~~individuals~~ to exercise their constitutional
33 rights of free speech in connection with public issues
34 ~~participate in the state's institutions of government.~~

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

42 (2) ~~(3)~~ As used in this section, the phrase or term:

43 (a) "Free speech in connection with public issues" means
44 any written or oral statement that is protected under applicable
45 law and is made before a governmental entity in connection with
46 an issue under consideration or review by a governmental entity,
47 or is made in or in connection with a play, movie, television
48 program, radio broadcast, audiovisual work, book, magazine
49 article, musical work, news report, or other similar work.

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

57 (3) ~~(4)~~ A person or ~~No~~ governmental entity in this state may
58 not ~~shall~~ file or cause to be filed, through its employees or

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59 agents, any lawsuit, cause of action, claim, cross-claim, or
60 counterclaim against another a person or entity without merit
61 and primarily ~~solely~~ because such person or entity has exercised
62 the constitutional right of free speech in connection with a
63 public issue, or right to peacefully assemble, ~~the right to~~
64 instruct representatives of government, or ~~and the right to~~
65 petition for redress of grievances before the various
66 governmental entities of this state, as protected by the First
67 Amendment to the United States Constitution and s. 5, Art. I of
68 the State Constitution.

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

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88 incurred in connection with a claim that an action was filed in
89 violation of this section.

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

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