

By Representative Littlefield

1                                   A bill to be entitled  
2           An act relating to government; creating the  
3           "Citizen Participation in Government Act" and  
4           providing for its purposes; providing immunity  
5           from civil liability; providing procedures for  
6           the judiciary to respond to lawsuits relating  
7           to the constitutional right to petition the  
8           government for redress of grievances; defining  
9           terms; providing an effective date.

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11           WHEREAS, the framers of our constitutions, recognizing  
12           citizen participation in government as an inalienable right  
13           essential to the survival of democracy, secured its protection  
14           through the right to petition the government for redress of  
15           grievances in the First Amendment to the U.S. Constitution and  
16           Section 5 of Article I of the State Constitution, and

17           WHEREAS, the communications, information, opinions,  
18           reports, testimony, claims, and arguments provided by citizens  
19           to their government are essential to wise government decisions  
20           and public policy in protecting the public health, safety, and  
21           welfare, in providing effective law enforcement, and in  
22           ensuring the efficient operation of government programs, and  
23           are essential to the credibility and trust afforded government  
24           and the preservation of our republican form of government  
25           through representative democracy, and

26           WHEREAS, civil lawsuits and counterclaims, often  
27           involving millions of dollars, have been and are being filed  
28           against countless citizens, businesses, and organizations  
29           because of their valid exercise of their right to petition,  
30           including seeking relief, influencing action, informing,

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1 communicating, and otherwise participating with government  
2 bodies, officials, or employees or the electorate, and

3           WHEREAS, such lawsuits, called "Strategic Lawsuits  
4 Against Public Participation" or "SLAPPs," are typically  
5 dismissed as unconstitutional, but often not before the  
6 defendants are put to great expense, harassment, and  
7 interruption of their duties, and

8           WHEREAS, the number of such lawsuits has increased  
9 significantly over the past 30 years, and

10           WHEREAS, these lawsuits are an abuse of the judicial  
11 process and are used to censor, intimidate, or punish  
12 citizens, businesses, and organizations for involving  
13 themselves in public affairs, and

14           WHEREAS, controlling these lawsuits will make a major  
15 contribution to lawsuit reform, and

16           WHEREAS, the threat of financial liability, litigation  
17 costs, destruction of one's business, loss of one's home, and  
18 other personal losses from groundless lawsuits seriously  
19 affects government, commerce, and individual rights by  
20 significantly diminishing public participation in government,  
21 in public discourse, and in voluntary public service, and

22           WHEREAS, while courts have recognized the harm from  
23 such lawsuits and have discouraged them, protection of these  
24 fundamental rights has been inadequate, and

25           WHEREAS, while some citizen communications to  
26 government inevitably will be false or unsound or made out of  
27 self interest or in bad faith, it is essential in our  
28 democracy that the constitutional rights of citizens to  
29 participate fully in the process of government be uniformly,  
30 consistently, and comprehensively protected and encouraged,  
31 NOW, THEREFORE,

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

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3 Section 1. Short title.--This act may be cited as the  
4 "Citizen Participation in Government Act."

5 Section 2. Declaration of purposes.--The purposes of  
6 this act are to:

7 (1) Protect and encourage citizen participation in  
8 government to the maximum extent permitted by law;

9 (2) Create a more equitable balance between the rights  
10 of persons to file lawsuits and to trial by jury and the  
11 rights of persons to petition, speak out, associate, and  
12 otherwise participate in their governments;

13 (3) Support the operations of and assure the  
14 continuation of representative government in this country for  
15 the protection and regulation of public health, safety, and  
16 welfare by protecting public participation in government  
17 programs and public policy decisions;

18 (4) Establish a balanced, uniform, comprehensive  
19 process for speedy adjudication of "Strategic Lawsuits Against  
20 Public Participation" as a major contribution to lawsuit  
21 reform; and

22 (5) Provide for attorney's fees, costs, and damages  
23 for persons whose citizen participation rights have been  
24 violated by the filing of a "Strategic Lawsuit Against Public  
25 Participation" against them.

26 Section 3. Immunity.--An act in furtherance of the  
27 constitutional right to petition, including seeking relief,  
28 influencing action, informing, communicating, and otherwise  
29 participating in the processes of government, is immune from  
30 civil liability, regardless of its intent or purpose, except

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1 when not aimed at procuring any governmental or electoral  
2 action, result, or outcome.

3 Section 4. Applicability.--This act applies to any  
4 motion to dispose of a claim in a judicial proceeding on the  
5 grounds that the claim is based on, relates to, or is in  
6 response to any act of the moving party in furtherance of the  
7 moving party's rights as provided in section 3.

8 Section 5. Required Procedures.--On the filing of any  
9 motion under section 4:

10 (1) The motion must be treated as one for summary  
11 judgment in which:

12 (a) The trial court uses a time period appropriate to  
13 preferred or expedited motions; and

14 (b) The moving party has a right of expedited appeal  
15 from a trial court order denying such a motion or from a trial  
16 court's failure to rule on such a motion in expedited fashion;

17 (2) Discovery is suspended, pending decision on the  
18 motion and appeals;

19 (3) The responding party has the burden of proof, of  
20 going forward with the evidence, and of persuasion on the  
21 motion;

22 (4) The court must make its determination based upon  
23 the facts contained in the pleadings and affidavits filed;

24 (5) The court must grant the motion and dismiss the  
25 judicial claim, unless the responding party has produced clear  
26 and convincing evidence that the acts of the moving party are  
27 not immunized from liability by section 3;

28 (6) Any government body to which the moving party's  
29 acts were directed or the Attorney General may intervene to  
30 defend or otherwise support the moving party in the suit;

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1           (7) The court must award a moving party who is  
2 dismissed, without regard to any limits under state law:

3           (a) Costs of litigation, including reasonable  
4 attorney's fees and expert witness fees incurred in connection  
5 with the motion; and

6           (b) Such additional sanctions upon the responding  
7 party, its attorneys, or law firms as it finds will be  
8 sufficient to deter repetition of such conduct and comparable  
9 conduct by others similarly situated; and

10           (8) A person damaged or injured by reason of a claim  
11 filed in violation of his or her rights under section 3 may  
12 seek relief in the form of a claim for actual or compensatory  
13 damages, as well as punitive damages, attorney's fees, and  
14 costs from the person or persons responsible.

15           Section 6. Definitions.--As used in this act, the  
16 term:

17           (1) "Government" means a branch, department, agency,  
18 instrumentality, official, employee, agent, or other person  
19 acting under color of law of the United States, a state, or  
20 subdivision of a state or other public authority, including  
21 the electorate.

22           (2) "State" means a state, the District of Columbia,  
23 the Commonwealth of Puerto Rico, and each territory and  
24 possession of the United States.

25           (3) "Judicial claim" or "claim" means any lawsuit,  
26 cause of action, claim, cross-claim, counterclaim, or other  
27 judicial pleading or filing requesting relief.

28           (4) "Motion" means any motion to dismiss, for summary  
29 judgment, for judgment on the pleadings, to strike, demurrer,  
30 or any other judicial pleading filed to dispose of a judicial  
31 claim.

1           (5) "Moving party" means any person on whose behalf  
2 the motion provided in section 4 is filed seeking dismissal of  
3 the judicial claim.

4           (6) "Responding party" means any person against whom  
5 the motion provided in section 4 is filed.

6           Section 7. This act shall take effect upon becoming a  
7 law.

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SENATE SUMMARY

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Creates the "Citizen Participation in Government Act."  
Provides immunity from civil liability for any act in  
furtherance of the constitutional right to petition the  
government for redress of grievances. Provides procedures for  
the judiciary to handle lawsuits dealing with the right to  
petition government.

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