

1 A bill to be entitled
2 An act relating to government; creating the
3 "Citizen Participation in Government Act";
4 creating s. 768.29, F.S.; providing legislative
5 intent; defining terms; prohibiting SLAPP
6 lawsuits by governmental entities because
7 persons or entities exercise certain
8 constitutional rights; providing procedures for
9 expediting resolution of motions regarding
10 SLAPP suits; authorizing court to award actual
11 damages, including costs and attorney's fees;
12 requiring reporting of SLAPP suits to Attorney
13 General and reporting of violations to certain
14 state officers; providing an effective date.
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16 WHEREAS, the framers of our constitutions, recognizing
17 citizen participation in government as an inalienable right
18 essential to the survival of democracy, secured its protection
19 through the right to petition the government for redress of
20 grievances in the First Amendment to the United States
21 Constitution and s. 5, Art. I of the State Constitution, and

22 WHEREAS, the communications, information, opinions,
23 reports, testimony, claims, and arguments provided by citizens
24 to their government are essential to wise government decisions
25 and public policy in protecting the public health, safety, and
26 welfare, in providing effective law enforcement, and in
27 ensuring the efficient operation of government programs, and
28 are essential to the credibility and trust afforded government
29 and the preservation of our republican form of government
30 through representative democracy, and
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1 WHEREAS, civil lawsuits and counterclaims, often
2 involving millions of dollars, have been and are being filed
3 against countless citizens, businesses, and organizations
4 because of their valid exercise of their right to petition,
5 including seeking relief, influencing action, informing,
6 communicating, and otherwise participating with government
7 bodies, officials, or employees or the electorate, and

8 WHEREAS, such lawsuits, called "Strategic Lawsuits
9 Against Public Participation" or "SLAPPs," are typically
10 dismissed as unconstitutional, but often not before the
11 defendants are put to great expense, harassment, and
12 interruption of their duties, and

13 WHEREAS, the number of such lawsuits has increased
14 significantly over the past 30 years, and

15 WHEREAS, these lawsuits are an abuse of the judicial
16 process and are used to censor, intimidate, or punish
17 citizens, businesses, and organizations for involving
18 themselves in public affairs, and

19 WHEREAS, controlling these lawsuits will make a major
20 contribution to lawsuit reform, and

21 WHEREAS, the threat of financial liability, litigation
22 costs, destruction of one's business, loss of one's home, and
23 other personal losses from groundless lawsuits seriously
24 affects government, commerce, and individual rights by
25 significantly diminishing public participation in government,
26 in public discourse, and in voluntary public service, and

27 WHEREAS, while courts have recognized the harm from
28 such lawsuits and have discouraged them, protection of these
29 fundamental rights has been inadequate, and

30 WHEREAS, while some citizen communications to
31 government inevitably will be false or unsound or made out of

1 self-interest or in bad faith, it is essential in our
2 democracy that the constitutional rights of citizens to
3 participate fully in the process of government be uniformly,
4 consistently, and comprehensively protected and encouraged,
5 NOW, THEREFORE,

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

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9 Section 1. Section 768.29, Florida Statutes, is
10 created to read:

11 768.29 Strategic Lawsuits Against Public Participation
12 (SLAPP) suits by governmental entities prohibited.--

13 (1) This section may be cited as the "Citizen
14 Participation in Government Act."

15 (2) It is the intent of the Legislature to protect the
16 right of Florida's citizens to exercise their rights to
17 peacefully assemble, instruct their representatives, and
18 petition for redress of grievances before the various
19 governmental entities of this state as protected by the First
20 Amendment to the United States Constitution and Art. I,
21 Section 5 of the State Constitution. The Legislature
22 recognizes that "Strategic Lawsuits Against Public
23 Participation" or "SLAPP" suits, as they are typically called,
24 have increased over the last 30 years and are mostly filed by
25 private industry and individuals. However, it is the public
26 policy of this state that government entities not engage in
27 SLAPP suits because such actions are inconsistent with the
28 right of individuals to participate in the state's
29 institutions of government. Therefore, the Legislature finds
30 and declares that prohibiting such lawsuits by governmental
31 entities will preserve this fundamental state policy, preserve

1 the constitutional rights of Florida citizens, and assure the
2 continuation of representative government in this state. It
3 is the intent of the Legislature that such lawsuits be
4 expeditiously disposed of by the courts.

5 (3) As used in this section, "governmental entity" or
6 "government entity" means the state, including the executive,
7 legislative, and the judicial branches of government and the
8 independent establishments of the state, counties,
9 municipalities, corporations primarily acting as
10 instrumentalities of the state, counties, or municipalities,
11 districts, authorities, boards, commissions, or any agencies
12 thereof.

13 (4) No governmental entity in this state shall file or
14 cause to be filed, through its employees or agents, any
15 lawsuit, cause of action, claim, cross-claim, or counterclaim
16 against a person or entity without merit and solely because
17 such person or entity has exercised the right to peacefully
18 assemble, the right to instruct representatives, and the right
19 to petition for redress of grievances before the various
20 governmental entities of this state, as protected by the First
21 Amendment to the United States Constitution and Art. I,
22 section 5 of the State Constitution.

23 (5) A person or entity sued by a governmental entity
24 in violation of this section has a right to an expeditious
25 resolution of a claim that the suit is in violation of this
26 section. A person or entity may petition the court for an
27 order dismissing the action or granting final judgment in
28 favor of that person or entity. The petitioner may file a
29 motion for summary judgment, together with supplemental
30 affidavits, seeking a determination that the governmental
31 entity's lawsuit has been brought in violation of this

1 section. The governmental entity shall thereafter file its
2 response and any supplemental affidavits. As soon as
3 practicable, the court shall set a hearing on the petitioner's
4 motion, which shall be held at the earliest possible time
5 after the filing of the governmental entity's response. The
6 court may award, subject to the limitations in s. 768.28, the
7 party sued by a governmental entity actual damages arising
8 from the governmental entity's violation of this act. The
9 court shall award the prevailing party reasonable attorney's
10 fees and costs incurred in connection with a claim that an
11 action was filed in violation of this section.

12 (6) In any case filed by a governmental entity which
13 is found by a court to be in violation of this section, the
14 governmental entity shall report such finding and provide a
15 copy of the court's order to the Attorney General no later
16 than 30 days after such order is final. The Attorney General
17 shall report any violation of this section by a governmental
18 entity to the Cabinet, and the President of the Senate, and
19 the Speaker of the House of Representatives. A copy of such
20 report shall be provided to the affected governmental entity.

21 Section 2. This act shall take effect upon becoming a
22 law.

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