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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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