

By Senator Crist

12-1703-03

See HB 1499

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A bill to be entitled
An act relating to strategic lawsuits against
public participation; amending s. 768.295,
F.S.; expanding application of strategic
lawsuits against public participation
provisions to any person or entity; providing
penalties; providing for revoking or rescinding
certain licenses or permits under certain
circumstances; providing an effective date.

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

Section 1. Section 768.295, Florida Statutes, is
amended to read:

768.295 Strategic Lawsuits Against Public
Participation (SLAPP) suits ~~by governmental entities~~
prohibited.--

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

(2) It is the intent of the Legislature to protect the
right of Florida's citizens to exercise their rights to
peacefully assemble, instruct their representatives, and
petition for redress of grievances before the various
governmental entities of this state as protected by the First
Amendment to the United States Constitution and s. 5, Art. I
of the State Constitution. The Legislature recognizes that
"Strategic Lawsuits Against Public Participation" or "SLAPP"
suits, as they are typically called, have increased over the
last 30 years and are mostly filed by private industry and
individuals. However, it is the public policy of this state
that government entities not engage in SLAPP suits because

1 such actions are inconsistent with the right of individuals to
2 participate in the state's institutions of government.
3 Therefore, the Legislature finds and declares that prohibiting
4 such lawsuits ~~by governmental entities~~ will preserve this
5 fundamental state policy, preserve the constitutional rights
6 of Florida citizens, and assure the continuation of
7 representative government in this state. It is the intent of
8 the Legislature that such lawsuits be expeditiously disposed
9 of by the courts.

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

18 (3)(4) No person or entity ~~governmental entity~~ in this
19 state shall file or cause to be filed, through its employees
20 or agents, any lawsuit, cause of action, claim, cross-claim,
21 or counterclaim against another a person or entity without
22 merit and solely because the sued ~~such~~ person or entity has
23 exercised the right to peacefully assemble, the right to
24 instruct representatives, and the right to petition for
25 redress of grievances ~~before the various governmental entities~~
26 ~~of this state~~, as protected by the First Amendment to the
27 United States Constitution and s. 5, Art. I of the State
28 Constitution.

29 (4)(5) A person or entity sued by another person or a
30 ~~governmental~~ entity in violation of this section has a right
31 to an expeditious resolution of a claim that the suit is in

1 violation of this section. A person or entity sued by another
2 person or entity in violation of this section may petition the
3 court for an order dismissing the action or granting final
4 judgment in favor of the petitioner ~~that person or entity~~. The
5 petitioner may file a motion for summary judgment, together
6 with supplemental affidavits, seeking a determination that the
7 ~~governmental entity's~~ lawsuit has been brought in violation of
8 this section. The person or ~~governmental~~ entity filing the
9 suit shall thereafter file its response and any supplemental
10 affidavits. As soon as practicable, the court shall set a
11 hearing on the petitioner's motion, which shall be held at the
12 earliest possible time after the filing of the suing
13 ~~governmental~~ entity's response. The court may award, subject
14 to the limitations in s. 768.28 in the case of a governmental
15 entity only, the petitioner's ~~party sued by a governmental~~
16 ~~entity~~ actual damages arising from the suing person's or
17 ~~governmental~~ entity's violation of this act. The court shall
18 award the prevailing party reasonable attorney's fees and
19 costs incurred in connection with a claim that an action was
20 filed in violation of this section. If a person or entity
21 files a suit in violation of this section and such person or
22 entity holds a license or permit that is related to the
23 activities of the person or entity and the cause of action in
24 the suit and the petitioner prevails on the motion to order
25 dismissal of the action or grant final judgment, the court
26 shall include in the order that such license or permit be
27 revoked or rescinded.

28 (5)(6) In any case filed by a governmental entity
29 which is found by a court to be in violation of this section,
30 the governmental entity shall report such finding and provide
31 a copy of the court's order to the Attorney General no later

1 than 30 days after such order is final. The Attorney General
2 shall report any violation of this section by a governmental
3 entity to the Cabinet, the President of the Senate, and the
4 Speaker of the House of Representatives. A copy of such report
5 shall be provided to the affected governmental entity. As used
6 in this subsection, "governmental entity" means the state,
7 including the executive, legislative, and the judicial
8 branches of government and the independent establishments of
9 the state, counties, municipalities, corporations primarily
10 acting as instrumentalities of the state, counties, or
11 municipalities, districts, authorities, boards, commissions,
12 or any agencies thereof.

13 Section 2. This act shall take effect upon becoming a
14 law.

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