

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Kottkamp offered the following:

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3 **Amendment (with title amendment)**

4 Remove lines 734-799 and insert:

5 right of parcel owners to exercise their rights as protected by
6 the First Amendment to the United States Constitution and s. 5,
7 Art. I of the State Constitution. The Legislature recognizes
8 that strategic lawsuits against public participation, or "SLAPP"
9 suits as they are typically called, have occurred when members
10 of a homeowners' association are sued by individuals or business
11 organizations arising out of a parcel owner's appearance and
12 presentation before a governmental entity on matters related to
13 the homeowners' association. However, it is the public policy of
14 this state that business organizations and individuals not
15 engage in SLAPP suits because such actions are inconsistent with
16 the right of parcel owners to participate in the state's

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17 institutions of government. Therefore, the Legislature finds and
18 declares that prohibiting such lawsuits by business
19 organizations and individuals against parcel owners who address
20 matters concerning their homeowners' association will preserve
21 this fundamental state policy, preserve the constitutional
22 rights of parcel owners, and ensure the continuation of
23 representative government in this state. It is the intent of the
24 Legislature that such lawsuits be expeditiously disposed of by
25 the courts.

26 (a) A business organization or individual in this state
27 may not file or cause to be filed, through its employees or
28 agents, any lawsuit, cause of action, claim, cross-claim, or
29 counterclaim against a parcel owner without merit and solely
30 because such parcel owner has exercised the right to instruct
31 his or her representatives or the right to petition for redress
32 of grievances before the various governmental entities of this
33 state, as protected by the First Amendment to the United States
34 Constitution and s. 5, Art. I of the State Constitution.

35 (b) A parcel owner sued by a business organization or
36 individual in violation of this section has a right to an
37 expeditious resolution of a claim that the suit is in violation
38 of this section. A parcel owner may petition the court for an
39 order dismissing the action or granting final judgment in favor
40 of that parcel owner. The petitioner may file a motion for
41 summary judgment, together with supplemental affidavits, seeking
42 a determination that the business organization's or individual's
43 lawsuit has been brought in violation of this section. The
44 business organization or individual shall thereafter file its

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45 response and any supplemental affidavits. As soon as
 46 practicable, the court shall set a hearing on the petitioner's
 47 motion, which shall be held at the earliest possible time after
 48 the filing of the business organization's or individual's
 49 response. The court may award the parcel owner sued by the
 50 business organization or individual actual damages arising from
 51 the business organization's or individual's violation of this
 52 section. A court may treble the damages awarded to a prevailing
 53 parcel owner and shall state the basis for the treble damages
 54 award in its judgment. The court shall award the prevailing
 55 party reasonable attorney's fees and costs incurred in
 56 connection with a claim that an action was filed in violation of
 57 this section.

58 (c) Homeowners' associations may not expend association

60 ===== T I T L E A M E N D M E N T =====

61 Remove line 28 and insert:
62 governmental entity; authorizing