

By Senator Gaetz

4-00962-09

20091424__

1 A bill to be entitled

2 An act relating to summary judgment; encouraging the
3 Supreme Court to adopt rules authorizing a party to
4 appeal an order denying a motion for summary judgment;
5 providing an effective date.
6

7 WHEREAS, a motion for summary judgment is a request by a
8 litigant to the court to enter judgment without a trial because
9 there are no issues of material fact, and

10 WHEREAS, summary judgment is a procedure that allows a
11 litigant to resolve a claim if one party is entitled to prevail
12 as a matter of law, and

13 WHEREAS, the purpose of summary judgment is to protect
14 litigants from having to bear trial costs when triable issues do
15 not exist, and

16 WHEREAS, summary judgment promotes efficiency in the
17 allocation and use of limited judicial resources and thereby
18 promotes public confidence in the state court system, and

19 WHEREAS, Section 4 of Article V of the State Constitution
20 vests with the Florida Supreme Court the power to provide by
21 Rules of Court for the review of interlocutory orders such as
22 the denial of a motion for summary judgment, and

23 WHEREAS, under the Rules of Procedure, a defendant
24 typically is not entitled to the immediate appeal of a denial of
25 a motion for summary judgment, and

26 WHEREAS, the Florida Supreme Court has declared that the
27 Constitution does not authorize the Legislature to provide for
28 interlocutory review and that a statute purporting to grant
29 interlocutory appeals is solely a declaration of policy, and

4-00962-09

20091424__

30 WHEREAS, the inability to appeal immediately the denial of
31 a motion for summary judgment frustrates the beneficial
32 objectives of summary judgment to the detriment of the public,
33 and

34 WHEREAS, summary judgment is a critical tool to facilitate
35 expeditious and economical resolution of legal matters, and

36 WHEREAS, a party should have the ability to appeal
37 immediately a denial of a motion for summary judgment, NOW,
38 THEREFORE,

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. The Legislature encourages the Florida Supreme
43 Court, in consultation and cooperation with the Court Rules
44 Committees of The Florida Bar, trial and appellate judges, and
45 other practitioners, to adopt rules authorizing a party to
46 appeal an order of a trial court in a civil action which denies
47 a motion for summary judgment. The Legislature further
48 encourages the Supreme Court to provide in the rules for:

49 (1) The trial court to issue a written order explaining the
50 basis of the denial of a motion for summary judgment;

51 (2) The matter to be transmitted to the appellate court
52 solely on the basis of the summary judgment motion;

53 (3) The appellant to be allowed to submit a simplified
54 brief to the appellate court in support of the granting of
55 discretionary review; and

56 (4) The case to continue in the trial court until
57 discretionary review is granted, at which time the appellate
58 court would temporarily assume jurisdiction until the appeal is

4-00962-09

20091424__

59 resolved.

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