

By the Committee on Judiciary; and Senators Gaetz and Aronberg

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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 party typically is  
24 not entitled to the immediate appeal of a denial of a motion for  
25 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

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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

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59 resolved.

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