

HB 1541

2010

1 A bill to be entitled
2 An act relating to summary judgment; encouraging the
3 Florida Supreme Court to adopt rules authorizing a party
4 to appeal an order denying a motion for summary judgment;
5 specifying rule criteria; 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 courts 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 State Constitution does not authorize the Legislature to provide

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28 | for interlocutory review and that a statute purporting to grant
 29 | interlocutory appeals is solely a declaration of policy, and

30 | WHEREAS, the inability to immediately appeal 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 immediately
 37 | appeal 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:

49 | (1) For the trial court to issue a written order
 50 | explaining the basis of the denial of a motion for summary
 51 | judgment.

52 | (2) For the matter to be transmitted to the appellate
 53 | court solely on the basis of the summary judgment motion.

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54 (3) For the appellant to be authorized to submit a
55 simplified brief to the appellate court in support of the
56 granting of discretionary review.

57 (4) For the case to continue in the trial court until
58 discretionary review is granted, at which time the appellate
59 court would temporarily assume jurisdiction until the appeal was
60 resolved.

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