

CS/HB 1041

2015

1 A bill to be entitled

2 An act relating to strategic lawsuits against public
3 participation; amending s. 768.295, F.S.; removing a
4 short title; providing that legislative intent
5 includes the protection of specified forms of free
6 speech; defining the term "free speech in connection
7 with public issues"; conforming provisions to changes
8 made by the act; providing an effective date.
9

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

11
12 Section 1. Section 768.295, Florida Statutes, is amended
13 to read:

14 768.295 Strategic Lawsuits Against Public Participation
15 (SLAPP) ~~suits by governmental entities~~ prohibited.-

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

18 (1)~~(2)~~ It is the intent of the Legislature to protect the
19 right in Florida ~~of Florida's citizens~~ to exercise the right of
20 free speech in connection with public issues and the ~~their~~
21 rights to peacefully assemble, instruct ~~their~~ representatives,
22 and petition for redress of grievances before the various
23 governmental entities of this state as protected by the First
24 Amendment to the United States Constitution and s. 5, Art. I of
25 the State Constitution. ~~The Legislature recognizes that~~
26 "Strategic Lawsuits Against Public Participation" or "SLAPP"

27 ~~suits, as they are typically called, have increased over the~~
 28 ~~last 30 years and are mostly filed by private industry and~~
 29 ~~individuals. However,~~ It is the public policy of this state that
 30 a person or governmental entity ~~government entities~~ not engage
 31 in Strategic Lawsuits Against Public Participation (SLAPP) suits
 32 because such actions are inconsistent with the right of persons
 33 ~~individuals~~ to exercise their constitutional right of free
 34 speech in connection with public issues ~~participate in the~~
 35 ~~state's institutions of government~~. Therefore, the Legislature
 36 finds and declares that prohibiting such lawsuits as herein
 37 described ~~by governmental entities~~ will preserve this
 38 fundamental state policy, preserve the constitutional rights of
 39 persons in Florida citizens, and ensure ~~assure~~ the continuation
 40 of representative government in this state. It is the intent of
 41 the Legislature that such lawsuits be expeditiously disposed of
 42 by the courts.

43 ~~(2)-(3)~~ As used in this section, the term:

44 (a) "Free speech in connection with public issues" means
 45 any written or oral statement that is protected under applicable
 46 law and is made before a governmental entity in connection with
 47 an issue under consideration or review by a governmental entity,
 48 or is made in or in connection with a play, movie, television
 49 program, radio broadcast, audiovisual work, book, magazine
 50 article, musical work, news report, or other similar work.

51 (b) "Governmental entity" or "government entity" means the
 52 state, including the executive, legislative, and the judicial

53 | branches of government and the independent establishments of the
54 | state, counties, municipalities, corporations primarily acting
55 | as instrumentalities of the state, counties, or municipalities,
56 | districts, authorities, boards, commissions, or any agencies
57 | thereof.

58 | ~~(3)-(4)~~ A person or ~~No~~ governmental entity in this state
59 | may not shall file or cause to be filed, through its employees
60 | or agents, any lawsuit, cause of action, claim, cross-claim, or
61 | counterclaim against another ~~a~~ person or entity without merit
62 | and primarily ~~solely~~ because such person or entity has exercised
63 | the constitutional right of free speech in connection with a
64 | public issue, or right to peacefully assemble, the right to
65 | instruct representatives of government, or ~~and the right to~~
66 | petition for redress of grievances before the various
67 | governmental entities of this state, as protected by the First
68 | Amendment to the United States Constitution and s. 5, Art. I of
69 | the State Constitution.

70 | ~~(4)-(5)~~ A person or entity sued by a governmental entity or
71 | another person in violation of this section has a right to an
72 | expeditious resolution of a claim that the suit is in violation
73 | of this section. A person or entity may move ~~petition~~ the court
74 | for an order dismissing the action or granting final judgment in
75 | favor of that person or entity. The person or entity ~~petitioner~~
76 | may file a motion for summary judgment, together with
77 | supplemental affidavits, seeking a determination that the
78 | claimant's or governmental entity's lawsuit has been brought in

79 violation of this section. The claimant or governmental entity
80 shall thereafter file a ~~its~~ response and any supplemental
81 affidavits. As soon as practicable, the court shall set a
82 hearing on the ~~petitioner's~~ motion, which shall be held at the
83 earliest possible time after the filing of the claimant's or
84 governmental entity's response. The court may award, subject to
85 the limitations in s. 768.28, the party sued by a governmental
86 entity actual damages arising from a ~~the~~ governmental entity's
87 violation of this section ~~act~~. The court shall award the
88 prevailing party reasonable attorney ~~attorney's~~ fees and costs
89 incurred in connection with a claim that an action was filed in
90 violation of this section.

91 (5)-(6) In any case filed by a governmental entity which is
92 found by a court to be in violation of this section, the
93 governmental entity shall report such finding and provide a copy
94 of the court's order to the Attorney General no later than 30
95 days after such order is final. The Attorney General shall
96 report any violation of this section by a governmental entity to
97 the Cabinet, the President of the Senate, and the Speaker of the
98 House of Representatives. A copy of such report shall be
99 provided to the affected governmental entity.

100 Section 2. This act shall take effect July 1, 2015.