

CHAPTER 2015-70

Committee Substitute for Senate Bill No. 1312

An act relating to strategic lawsuits against public participation; amending s. 768.295, F.S.; removing a short title; providing that legislative intent includes the protection of specified forms of free speech; defining the phrase “free speech in connection with public issues”; conforming provisions to changes made by the act; providing an effective date.

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

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

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

(1) This section may be cited as the “Citizen Participation in Government Act.”

(2) It is the intent of the Legislature to protect the right in Florida of Florida’s citizens to exercise the their rights of free speech in connection with public issues, and the rights to peacefully assemble, instruct their representatives, and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. ~~The Legislature recognizes that “Strategic Lawsuits Against Public Participation” or “SLAPP” suits, as they are typically called, have increased over the last 30 years and are mostly filed by private industry and individuals. However,~~ It is the public policy of this state that a person or governmental entity ~~government entities~~ not engage in SLAPP suits because such actions are inconsistent with the right of persons individuals to exercise such constitutional rights of free speech in connection with public issues ~~participate in the state’s institutions of government.~~ Therefore, the Legislature finds and declares that prohibiting such lawsuits as herein described ~~by governmental entities~~ will preserve this fundamental state policy, preserve the constitutional rights of persons in Florida citizens, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

(2)(3) As used in this section, the phrase or term:

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

(b) “Governmental entity” or “government entity” means the state, including the executive, legislative, and the judicial branches of government and the independent establishments of the state, counties, municipalities, corporations primarily acting as instrumentalities of the state, counties, or municipalities, districts, authorities, boards, commissions, or any agencies thereof.

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

(4)(5) A person or entity sued by a governmental entity ~~or another person~~ in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A person or entity may ~~move~~ ~~petition~~ the court for an order dismissing the action or granting final judgment in favor of that person or entity. ~~The person or entity petitioner~~ may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the ~~claimant’s or~~ governmental entity’s lawsuit has been brought in violation of this section. ~~The claimant or~~ governmental entity shall thereafter file ~~a~~ its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the ~~petitioner’s~~ motion, which shall be held at the earliest possible time after the filing of the ~~claimant’s or~~ governmental entity’s response. The court may award, subject to the limitations in s. 768.28, the party sued by a governmental entity actual damages arising from ~~a~~ the governmental entity’s violation of this ~~section~~ act. The court shall award the prevailing party reasonable ~~attorney attorney’s~~ fees and costs incurred in connection with a claim that an action was filed in violation of this section.

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

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

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.