



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1434

Introduced 2/9/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

New Act

Creates the Citizen Participation Act. Applies to motions in cases concerning SLAPP lawsuits (Strategic Lawsuits Against Public Participation) that have been filed to discourage citizen participation in government. Requires courts to decide those motions within 90 days. Provides that discovery is suspended pending a decision on the motion. Allows discovery on certain issues upon leave of court. Requires that the motion be granted and the claim dismissed unless the responding party produces clear and convincing evidence that the moving parties' acts are not immunized under this Act. Provides for attorney's fees and costs to be awarded to the prevailing moving party. Effective immediately.

LRB095 11109 AJ0 31442 b

1 AN ACT concerning citizen participation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Citizen Participation Act.

6 Section 5. Public policy. Pursuant to the fundamental
7 philosophy of the American constitutional form of government,
8 it is declared to be the public policy of the State of Illinois
9 that the constitutional rights of citizens and organizations to
10 be involved and participate freely in the process of government
11 must be encouraged and safeguarded with great diligence. The
12 information, reports, opinions, claims, arguments, and other
13 expressions provided by citizens are vital to effective law
14 enforcement, the operation of government, the making of public
15 policy and decisions, and the continuation of representative
16 democracy. The laws, courts, and other agencies of this State
17 must provide the utmost protection for the free exercise of
18 these rights of petition, speech, association, and government
19 participation.

20 Civil actions for money damages have been filed against
21 citizens and organizations of this State as a result of their
22 valid exercise of their constitutional rights to petition,
23 speak freely, associate freely, and otherwise participate in

1 and communicate with government. There has been a disturbing
2 increase in lawsuits termed "Strategic Lawsuits Against Public
3 Participation" in government or "SLAPPs" as they are popularly
4 called.

5 The threat of SLAPPs, personal liability, and burdensome
6 litigation costs significantly chills and diminishes citizen
7 participation in government, voluntary public service, and the
8 exercise of these important constitutional rights. This abuse
9 of the judicial process can and has been used as a means of
10 intimidating, harassing, or punishing citizens and
11 organizations for involving themselves in public affairs.

12 It is in the public interest and it is the purpose of this
13 Act to strike a balance between the rights of persons to file
14 lawsuits for injury and the constitutional rights of persons to
15 petition, speak freely, associate freely, and otherwise
16 participate in government; to protect and encourage public
17 participation in government to the maximum extent permitted by
18 law; to establish an efficient process for identification and
19 adjudication of SLAPPs; and to provide for attorney's fees and
20 costs to prevailing movants.

21 Section 10. Definitions. In this Act:

22 "Government" includes a branch, department, agency,
23 instrumentality, official, employee, agent, or other person
24 acting under color of law of the United States, a state, a
25 subdivision of a state, or another public authority including

1 the electorate.

2 "Person" includes any individual, corporation,
3 association, organization, partnership, 2 or more persons
4 having a joint or common interest, or other legal entity.

5 "Judicial claim" or "claim" include any lawsuit, cause of
6 action, claim, cross-claim, counterclaim, or other judicial
7 pleading or filing alleging injury.

8 "Motion" includes any motion to dismiss, for summary
9 judgment, or to strike, or any other judicial pleading filed to
10 dispose of a judicial claim.

11 "Moving party" means any person on whose behalf a motion
12 described in subsection (a) of Section 20 is filed seeking
13 dismissal of a judicial claim.

14 "Responding party" means any person against whom a motion
15 described in subsection (a) of Section 20 is filed.

16 Section 15. Applicability. This Act applies to any motion
17 to dispose of a claim in a judicial proceeding on the grounds
18 that the claim is based on, relates to, or is in response to
19 any act or acts of the moving party in furtherance of the
20 moving party's rights of petition, speech, association, or to
21 otherwise participate in government.

22 Acts in furtherance of the constitutional rights to
23 petition, speech, association, and participation in government
24 are immune from liability, regardless of intent or purpose,
25 except when not genuinely aimed at procuring favorable

1 government action, result, or outcome.

2 Section 20. Motion procedure and standards.

3 (a) On the filing of any motion as described in Section 15,
4 a hearing and decision on the motion must occur within 90 days
5 after notice of the motion is given to the respondent. An
6 appellate court shall expedite any appeal or other writ,
7 whether interlocutory or not, from a trial court order denying
8 that motion or from a trial court's failure to rule on that
9 motion within 90 days after that trial court order or failure
10 to rule.

11 (b) Discovery shall be suspended pending a decision on the
12 motion. However, discovery may be taken, upon leave of court
13 for good cause shown, on the issue of whether the movants acts
14 are not immunized from, or are not in furtherance of acts
15 immunized from, liability by this Act.

16 (c) The court shall grant the motion and dismiss the
17 judicial claim unless the court finds that the responding party
18 has produced clear and convincing evidence that the acts of the
19 moving party are not immunized from, or are not in furtherance
20 of acts immunized from, liability by this Act.

21 Section 25. Attorney's fees and costs. The court shall
22 award a moving party who prevails in a motion under this Act
23 reasonable attorney's fees and costs incurred in connection
24 with the motion.

1 Section 30. Construction of Act.

2 (a) Nothing in this Act shall limit or preclude any rights
3 the moving party may have under any other constitutional,
4 statutory, case or common law, or rule provisions.

5 (b) This Act shall be construed liberally to effectuate its
6 purposes and intent fully.

7 Section 35. Severability. The provisions of this Act are
8 severable under Section 1.31 of the Statute on Statutes.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.