



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5162

by Rep. Peter Breen

#### SYNOPSIS AS INTRODUCED:

735 ILCS 110/10  
735 ILCS 110/15  
735 ILCS 110/20

Amends the Citizen Participation Act. Changes the definition of "motion". Provides that the intent of the responding party in bringing the claim is not taken into account for any motion to dispose of a claim on the grounds that the claim is in response to any act of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government. Provides that unless a court finds that the responding party has shown by a preponderance of the evidence a probability (rather than "produced clear and convincing evidence") that the acts of the moving party are not immunized from liability of this Act a court shall grant a motion to dispose of a claim on the grounds that the claim is in response to any act of the moving party in furtherance of the moving party's rights of petition, speech, association, or to otherwise participate in government and dismiss the claim.

LRB100 20706 HEP 36171 b

1 AN ACT concerning civil law.

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

4 Section 5. The Citizen Participation Act is amended by  
5 changing Sections 10, 15, and 20 as follows:

6 (735 ILCS 110/10)

7 Sec. 10. Definitions. In this Act:

8 "Government" includes a branch, department, agency,  
9 instrumentality, official, employee, agent, or other person  
10 acting under color of law of the United States, a state, a  
11 subdivision of a state, or another public authority including  
12 the electorate.

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

16 "Judicial claim" or "claim" include any lawsuit, cause of  
17 action, claim, cross-claim, counterclaim, or other judicial  
18 pleading or filing alleging injury.

19 "Motion" includes a special motion to strike under this  
20 Act, filed to dispose of a judicial claim, within the time  
21 allowed for responding to the claim and including any  
22 extensions granted by the court, and may raise any and all  
23 legal and evidentiary deficiencies in the claim along with

1 ~~asserting any legal or evidentiary defenses thereto any motion~~  
2 ~~to dismiss, for summary judgment, or to strike, or any other~~  
3 ~~judicial pleading filed to dispose of a judicial claim.~~

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

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

9 (Source: P.A. 95-506, eff. 8-28-07.)

10 (735 ILCS 110/15)

11 Sec. 15. Applicability. Without regard to the intent of the  
12 responding party in bringing the claim, this ~~This~~ Act applies  
13 to any motion to dispose of a claim in a judicial proceeding on  
14 the grounds that the claim is based on, relates to, or is in  
15 response to any act or acts of the moving party in furtherance  
16 of the moving party's rights of petition, speech, association,  
17 or to otherwise participate in government.

18 Acts in furtherance of the constitutional rights to  
19 petition, speech, association, and participation in government  
20 are immune from liability, regardless of intent or purpose,  
21 except when not genuinely aimed at procuring favorable  
22 government action, result, or outcome.

23 (Source: P.A. 95-506, eff. 8-28-07.)

24 (735 ILCS 110/20)

1           Sec. 20. Motion procedure and standards.

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

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

15          (c) The court shall grant the motion and dismiss the  
16 judicial claim unless the court finds that the responding party  
17 has shown by a preponderance of the evidence a probability  
18 ~~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          (Source: P.A. 95-506, eff. 8-28-07.)