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## AMENDMENT TO SENATE BILL 168

2 AMENDMENT NO. \_\_\_\_. Amend Senate Bill 168 by replacing 3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the5 Citizen Participation Act.

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

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, -2- LRB093 05290 WGH 12563 a

speak freely, associate freely, and otherwise participate in and communicate with government. There has been a disturbing increase in lawsuits termed "Strategic Lawsuits Against Public Participation" in government or "SLAPPs" as they are popularly called.

The threat of SLAPPs, personal liability, and burdensome 6 7 litigation costs significantly chills and diminishes citizen 8 participation in government, voluntary public service, and 9 the exercise of these important constitutional rights. This abuse of the judicial process can and has been used as 10 а 11 means of intimidating, harassing, or punishing citizens and 12 organizations for involving themselves in public affairs.

It is in the public interest and it is the purpose of 13 this Act to strike a balance between the rights of persons to 14 15 file lawsuits for injury and the constitutional rights of 16 persons to petition, speak freely, associate freely, and otherwise participate in government; to protect and encourage 17 public participation in government to the maximum extent 18 permitted by law; to establish an efficient process for 19 identification and adjudication of SLAPPs; and to provide for 20 21 attorney's fees and costs to prevailing movants.

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## Section 10. Definitions. In this Act:

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

28 "Person" includes any individual, corporation, 29 association, organization, partnership, 2 or more persons 30 having a joint or common interest, or other legal entity.

31 "Judicial claim" or "claim" include any lawsuit, cause of 32 action, claim, cross-claim, counterclaim, or other judicial 33 pleading or filing alleging injury. -3- LRB093 05290 WGH 12563 a

1 "Motion" includes any motion to dismiss, for summary 2 judgment, or to strike, or any other judicial pleading filed 3 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 motion8 described in subsection (a) of Section 20 is filed.

9 Section 15. Applicability. This Act applies to any 10 motion to dispose of a claim in a judicial proceeding on the 11 grounds that the claim is based on, relates to, or is in 12 response to any act or acts of the moving party in 13 furtherance of the moving party's rights of petition, speech, 14 association, or to otherwise participate in government.

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

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## Section 20. Motion procedure and standards.

21 On the filing of any motion as described in Section (a) 15, a hearing and decision on the motion must occur within 90 22 23 days after notice of the motion is given to the respondent. An appellate court shall expedite any appeal or other writ, 24 25 whether interlocutory or not, from a trial court order denying that motion or from a trial court's failure to rule 26 on that motion within 90 days after that trial court order or 27 28 failure to rule.

(b) Discovery shall be suspended pending a decision on the motion. However, discovery may be taken, upon leave of court for good cause shown, on the issue of whether the movants acts are not immunized from, or are not in

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1 furtherance of acts immunized from, liability by this Act.

2 (c) The court shall grant the motion and dismiss the 3 judicial claim unless the court finds that the responding 4 party has produced clear and convincing evidence that the 5 acts of the moving party are not immunized from, or are not 6 in furtherance of acts immunized from, liability by this Act.

7 Section 25. Attorney's fees and costs. The court shall 8 award a moving party who prevails in a motion under this Act 9 reasonable attorney's fees and costs incurred in connection 10 with the motion.

11 Section 30. Construction of Act.

12 (a) Nothing in this Act shall limit or preclude any 13 rights the moving party may have under any other 14 constitutional, statutory, case or common law, or rule 15 provisions.

16 (b) This Act shall be construed liberally to effectuate17 its purposes and intent fully.

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

20 Section 99. Effective date. This Act takes effect upon 21 becoming law.".