

JAN 26 2022

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# A BILL FOR AN ACT

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RELATING TO PUBLIC PARTICIPATION IN GOVERNMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 634F-1, Hawaii Revised Statutes, is  
2 amended as follows:

3       1. By amending the definition of "governmental body" to  
4 read:

5       "Governmental body" includes a legislative, executive, or  
6 judicial branch, department, agency, instrumentality, official,  
7 employee, agent, or other person acting under color of law of  
8 the United States, a state, or subdivision of a state or other  
9 public authority."

10       2. By amending the definition of "public participation" to  
11 read:

12       "Public participation" means any oral or written testimony  
13 or public statement submitted or provided, or conduct expressed,  
14 in the public interest to a governmental body during the course  
15 of a governmental proceeding[?] or any other legislative,  
16 executive, or judicial forum, including public hearings;



1 administrative hearings; submissions to a board, commission, or  
2 council; and judicial proceedings."

3 SECTION 2. Section 634F-2, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[f]§634F-2[+] **Required procedures; motion.**

6 Notwithstanding any law to the contrary, including rules of  
7 court, upon the filing of any motion to dispose of a claim in a  
8 judicial proceeding on the grounds that the claim is based on,  
9 relates to, or involves public participation and is a SLAPP  
10 lawsuit:

11 (1) The motion shall be treated as a motion for judgment  
12 on the pleadings, matters outside the pleadings shall  
13 be excluded by the court, and the court shall expedite  
14 the hearing of the motion;

15 (2) The moving party shall have a right:

16 (A) To an immediate appeal from a court order denying  
17 the motion; and

18 (B) To file an application for a writ of mandamus if  
19 the court fails to rule on the motion in an  
20 expedited fashion;



- 1           (3) Discovery by the responding party on the claim for  
2           which the motion to dispose has been filed shall be  
3           suspended, pending decision on the motion and appeals;
- 4           (4) The responding party shall:
- 5               (A) Without leave of court, have seven days to amend  
6               its pleadings to be pled with specificity, and  
7               shall include ~~such~~ any supporting particulars  
8               as are peculiarly within the supporting pleader's  
9               knowledge; and
- 10            (B) Have the burden of proof and persuasion on the  
11            motion;
- 12           (5) The court shall make its determination based upon the  
13           allegations contained in the pleadings;
- 14           (6) The court shall grant the motion and dismiss the  
15           judicial claim, unless the responding party has  
16           demonstrated that more likely than not, the  
17           respondent's allegations do not constitute a SLAPP  
18           lawsuit as defined in section 634F-1;
- 19           (7) Any governmental body to which the moving party's acts  
20           were directed or the attorney general in the case of a  
21           state governmental body, or the county attorney or



1 corporation counsel in the case of a county  
2 governmental body may intervene to defend or otherwise  
3 support the moving party in the lawsuit;

4 (8) The court shall award a moving party who prevails on  
5 the motion, without regard to any limits under state  
6 law:

7 (A) Actual damages or \$5,000, whichever is greater;

8 (B) Costs of suit, including reasonable attorneys'  
9 and expert witness fees, incurred in connection  
10 with the motion; and

11 (C) [~~Such~~] Any additional sanctions upon the  
12 responding party, its attorneys, or law firms as  
13 the court determines shall be sufficient to deter  
14 repetition of the conduct and comparable conduct  
15 by others similarly situated; and

16 (9) Any person damaged or injured by reason of a claim  
17 filed in violation of their rights under this chapter  
18 may seek relief in the form of a claim for actual or  
19 compensatory damages, as well as punitive damages,  
20 attorneys' fees, and costs, from the person  
21 responsible."



1       SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4       SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 5. This Act shall take effect upon its approval.

7  
INTRODUCED BY: 



# S.B. NO. 3329

**Report Title:**

Public Participation in Government; Scope of Application;  
Strategic Lawsuits Against Public Participation; Discovery;  
Suspension

**Description:**

Amends the scope of chapter 643F, HRS. Limits to only the responding party on the applicable claim the requirement that discovery be suspended upon the filing of certain motions to dispose of a claim.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

