

Chapter 283. AN ACT RELATIVE TO LIMITING STRATEGIC LITIGATION

Be it enacted, etc.; as follows:

SECTION 1. Chapter 231 of the General Laws is hereby amended by inserting after section 59G, as appearing in the 1992 Official Edition, the following section-Section 59H. In any case in which a party asserts that the civil claims, counterclaims, or cross claims against said party are based on said party's exercise of its right of petition under the constitution of the United States or of the commonwealth, said party may bring a special motion to dismiss. The court shall advance any such special motion so that it may be heard and determined as expeditiously as possible. The court shall grant such special motion, unless the party against whom such special motion is made shows that: (1) that the moving party's exercise of its right to petition was devoid of any reasonable factual support or any arguable basis in law and (2) that the moving party's acts caused actual injury to the responding party. ' In making its determination, the court shall consider the pleadings and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

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The attorney general, on his behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed, may intervene to defend or otherwise support the moving party on such special motion.

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All discovery proceedings shall be stayed upon the filing of the special motion under this section; provided, however, that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery shall remain in effect until notice of entry of the order ruling on the special motion.

Said special motion to dismiss may be filed within sixty days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper.

If the court grants such special motion to dismiss, the court shall award the moving party costs and reasonable attorney's fees, including those incurred for the special motion

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and any related discovery matters. Nothing in this section shall affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, the words "a party's exercise of its right of petition" shall mean any written or oral statement made before or submitted to a legislative, executive, or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive, or judicial body or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement falling within constitutional protection of the right to petition government.

SECTION 2. The provisions of this act shall apply to all claims, counterclaims, and

cross claims that have not been fully adjudicated on, or subsequent to, the effective date of this act. Notwithstanding the provisions of section one of this act, a party may file a special motion to dismiss a claim, counterclaim, or cross claim in existence on the effective date of this act within sixty days of the effective date of this act.

This bill was returned by the Governor to the House of Representatives, the branch in which it originated, with his objections thereto. Said bill was passed by the House on December 29, 1994 and in concurrence by the Senate on December 29, 1994, the objections of the Governor notwithstanding and in the manner prescribed by the Constitution and thereby has the force of law.