

7 GCA CIVIL PROCEDURE
CH. 17 CITIZEN PARTICIPATION IN GOVERNMENT ACT

CHAPTER 17
CITIZEN PARTICIPATION IN GOVERNMENT ACT

SOURCE: This Chapter was added by an uncodified law, P.L. 24-297, on December 3, 1998. Codified by Compiler as it is a clear intent of the Legislature to make this a permanent part of the law.

- § 17101. Short Title.
- § 17102. Legislative Findings and Declaration of Purposes.
- § 17103. Definitions.
- § 17104. Immunity.
- § 17105. Applicability.
- § 17106. Required Procedures.
- § 17107. Relationship to Other Laws.
- § 17108. Rule of Construction.
- § 17109. Separability of Provisions.

§ 17101. Short Title.

This Chapter may be cited as the ‘*Citizen Participation in Government Act of 1998.*’

§ 17102. Legislative Findings and Declaration of Purposes.

(a) Findings. *I Liheslaturan Guåhan* [The Guam Legislature] finds and declares that:

(1) the framers of the United States Constitution, recognizing citizen participation in government as an inalienable right essential to the survival of democracy, secured its protection through the right to petition the government for redress of grievances in the First Amendment to the U.S. Constitution;

(2) the communications, information, opinions, reports, testimony, claims and arguments provided by citizens to their governments are essential to the making of wise government decisions and public policy; the public health, safety and welfare; effective law enforcement; the efficient operation of government programs; the credibility and trust afforded government; and the continuation of America’s republican form of government through representative democracy in America;

(3) civil lawsuits and counterclaims, often claiming millions of dollars, have been, and are being, filed against thousands of citizens, businesses and organizations based on their valid exercise of their right to petition, including seeking relief, influencing action, informing,

7 GCA CIVIL PROCEDURE
CH. 17 CITIZEN PARTICIPATION IN GOVERNMENT ACT

communicating, and otherwise participating with government bodies, officials, or employees or the electorate;

(4) such lawsuits, called ‘Strategic Lawsuits Against Public Participation’ or ‘SLAPPs,’ are typically dismissed as unconstitutional, but often not before the defendants are put to great expense, harassment and interruption of their productive activities;

(5) the number of SLAPPs has increased significantly over the past thirty (30) years;

(6) SLAPPs are an abuse of the judicial process; they are used to censor, chill, intimidate, or punish citizens, businesses and organizations for involving themselves in public affairs, and controlling SLAPPs will make a major contribution to lawsuit reform;

(7) the threat of financial liability, litigation costs, destruction of one's business, loss of one's home and other personal losses from groundless lawsuits seriously affects government, public welfare and individual rights by significantly diminishing public participation in government, in public issues and in voluntary service;

(8) while courts have recognized and discouraged SLAPPs, judicial protection of these important rights has not been uniform or comprehensive; and

(9) while some citizen communications to government inevitably will be incorrect, unsound, self-interested or not in good faith, it is essential in our democracy that the constitutional rights of citizens to participate fully in the process of government be uniformly, consistently, and comprehensively protected and encouraged.

(b) Purposes. The purposes of this Chapter are:

(1) to protect and encourage citizen participation in government to the maximum extent permitted by law;

(2) to create a more equitable balance between the rights of persons to file lawsuits and to trial by jury, and the rights of other persons to petition, speak out, associate and otherwise participate in their governments;

(3) to support the operation of and assure the continuation of representative government in America, including the protection and regulation of public health, safety and welfare by protecting public participation in government programs, public policy decisions and other actions;

7 GCA CIVIL PROCEDURE
CH. 17 CITIZEN PARTICIPATION IN GOVERNMENT ACT

(4) to establish a balanced, uniform, comprehensive process for speedy adjudication of SLAPPs, as a major contribution to lawsuit reform; and

(5) to provide for attorneys fees, costs, sanctions and damages for persons whose citizen participation rights have been violated by the filing of a SLAPP against them.

§ 17103. Definitions.

As used in this Chapter:

(a) “*Government*” includes a branch, department, agency, instrumentality, official, employee, agent or other person acting under color of law of the United States, a State, a Territory, or a subdivision of a State or Territory, including municipalities and their boards, commissions, and departments, or other public authority, including the electorate.

(b) ‘*Person*’ includes any individual, corporation, association, organization, partnership, two (2) or more persons having a joint or common interest, or other legal entity.

(c) ‘*Judicial claim*’ or ‘*claim*’ includes any lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing requesting relief.

(d) ‘*Motion*’ includes any motion to dismiss, for summary judgment, for judgment on the pleadings, to strike, demurrer, or any other judicial pleading filed to dispose of a judicial claim.

(e) ‘*Moving party*’ means any person on whose behalf the motion described in § 17104 is filed seeking dismissal of the judicial claim.

(f) ‘*Responding party*’ means any person against whom the motion described in § 17104 is filed.

§ 17104. Immunity.

Acts in furtherance of the Constitutional rights to petition, including seeking relief, influencing action, informing, communicating and otherwise participating in the processes of government, shall be immune from liability, regardless of intent or purpose, except where not aimed at procuring any government or electoral action, result or outcome.

7 GCA CIVIL PROCEDURE
CH. 17 CITIZEN PARTICIPATION IN GOVERNMENT ACT

§ 17105. Applicability.

This Chapter applies to any motion to dispose of a claim in a judicial proceeding on the grounds that the claim is based on, relates to or is in response to any act of the moving party in furtherance of the moving party's rights as described in § 17104.

§ 17106. Required Procedures.

On the filing of any motion as described in § 17105:

- (a) the motion shall be treated as one for summary judgment:
 - (1) the trial court shall use a time period appropriate to preferred or expedited motions; and
 - (2) the moving party shall have a right of expedited appeal from a trial court order denying such a motion or from a trial court failure to rule on such a motion in expedited fashion;
- (b) discovery shall be suspended, pending decision on the motion and appeals;
- (c) the responding party shall have the burden of proof, of going forward with the evidence and of persuasion on the motion;
- (d) the court shall make its determination based on the facts contained in pleadings and affidavits filed;
- (e) the court shall grant the motion and dismiss the judicial claim, unless the responding party has produced *clear and convincing* evidence that the acts of the moving party are not immunized from liability by § 17104;
- (f) any government body to which the moving party's acts were directed, or the Attorney General of this Island, may intervene, defend or otherwise support the moving party in the SLAPP;
- (g) the court shall award a moving party who is dismissed, without regards to any limit under Guam law:
 - (1) costs of litigation, including reasonable attorney and expert witness fees, incurred in connection with the motion; and
 - (2) such additional sanctions upon the responding party, its attorneys or law firms as it determines will be sufficient to deter repetition of such conduct and comparable conduct by others similarly situated; and

7 GCA CIVIL PROCEDURE
CH. 17 CITIZEN PARTICIPATION IN GOVERNMENT ACT

(h) a person damaged or injured by reason of a claim filed in violation of their rights under § 17104 may seek relief in the form of a claim for actual or compensatory damages, as well as punitive damages, attorney's fees and costs, from the person or persons responsible.

§ 17107. Relationship to Other Laws.

Nothing in this Chapter shall limit or preclude any rights the moving party may have under any other constitutional, statutory, case or common law, or rule provisions.

§ 17108. Rule of Construction.

This Chapter shall be construed liberally to effectuate its purposes and intent fully.

§ 17109. Separability of Provisions.

If any provision of this Chapter or the application of any provision of this Chapter to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of this Chapter shall not be affected thereby.
