

070038808

SENATE BILL NO. 858

Offered January 10, 2007

Prefiled January 8, 2007

A *BILL to amend the Code of Virginia by adding a section numbered § 8.01-223.2, relating to strategic lawsuits against public participation; summary dismissal.*

Patron—Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered § 8.01-223.2 as follows:

§ 8.01-223.2. Summary dismissal of certain suits involving public participation.

In any civil action, if the right to petition under the Virginia or United States Constitution is properly raised in defense of a claim, counterclaim, or cross-claim that is (i) brought by a person who has applied for or obtained a permit, zoning change, license, lease, certificate, or other entitlement for use or permission to act, or by an individual or entity with a materially related interest, connection, or affiliation (the claimant); (ii) brought against a nongovernmental individual or entity (the respondent); and (iii) is based upon advocacy by the respondent and directed toward the claimant, before a governmental individual or body on an issue of public or societal importance, the court shall dismiss the action or claim on motion upon a showing by the respondent that:

1. The claimant's action or claim was brought maliciously and with intent to harass the respondent;

2. The respondent's petitioning activities had reasonable factual support or a cognizable basis in law for their assertion; and

3. The primary purpose of the respondent's activity was not to harass the claimant or effectuate another improper objective.

Upon entry of an order dismissing such a claim, the court shall consider imposing sanctions authorized pursuant to § 8.01-271.1.

Notwithstanding any other provision of law, a motion to dismiss under this section may be based, in whole or in part, upon affidavits or discovery depositions.

INTRODUCED

SB858