

**CITIZEN PARTICIPATION IN GOVERNMENT****ACT**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: R. Mont Evans**

AN ACT RELATING TO THE JUDICIAL CODE; CREATING A DEFENSE FOR CITIZENS WHO PETITION OR PARTICIPATE IN GOVERNMENT PROCESSES; AND PROVIDING FOR A PROCEDURE TO DISPOSE OF SUITS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

**78-57-101**, Utah Code Annotated 1953

**78-57-102**, Utah Code Annotated 1953

**78-57-103**, Utah Code Annotated 1953

**78-57-104**, Utah Code Annotated 1953

**78-57-105**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78-57-101** is enacted to read:

**CHAPTER 57. CITIZEN PARTICIPATION IN GOVERNMENT ACT****78-57-101. Title.**

This chapter is known as the "Citizen Participation in Government Act."

Section 2. Section **78-57-102** is enacted to read:

**78-57-102. Definitions.**

As used in this chapter:

(1) "Government" includes a branch, department, agency, instrumentality, official, employee, agent, or other person acting under color of law of the United States, a state, or subdivision of a state or other public authority, including the electorate.

(2) "Judicial claim" or "claim" includes any lawsuit, cause of action, claim, cross-claim,

counterclaim, or other judicial pleading or filing requesting relief.

(3) "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.

(4) "Moving party" means any person on whose behalf the motion described in Section 78-57-104 is filed seeking dismissal of the judicial claim.

(5) "Person" means the same as defined in Section 68-3-12.

(6) "Process of government" means the processes by which the legislative and executive branches of government make decisions and the activities leading up to the decisions, including petitioning, informing, communicating, testifying at hearings, and otherwise providing citizen input to governmental officials.

(7) "Responding party" means any person against whom the motion described in Section 78-57-104 is filed.

(8) "State" means the same as defined in Section 68-3-12.

Section 3. Section **78-57-103** is enacted to read:

**78-57-103. Immunity.**

A person's actions while participating in the process of government are not actionable unless the person's actions are a violation of a provision of Title 76, Criminal Code.

Section 4. Section **78-57-104** is enacted to read:

**78-57-104. Applicability.**

A defendant in an action who believes that the action is based on, relates to, or is in response to an act of the defendant while participating in the process of government, may file a motion to dismiss the action on the grounds that the action is in response to their participation in the process of government.

Section 5. Section **78-57-105** is enacted to read:

**78-57-105. Procedures.**

(1) On the filing of any motion as described in Section 78-57-104:

(a) the court shall treat the motion as one for summary judgment:

(i) the trial court shall use a time period appropriate to preferred or expedited motions; and

(ii) the moving party shall have a right of expedited appeal from a trial court order denying the motion or from a trial court failure to rule on the motion in expedited fashion;

(b) the court shall suspend discovery pending decision on the motion and appeals;

59           (c) the responding party shall have the burden of proof of going forward with the evidence  
60           and of persuasion on the motion; and

61           (d) the court shall make its determination based upon the facts contained in the pleadings  
62           and affidavits filed.

63           (2) The court shall grant the motion and dismiss the action, unless the responding party  
64           produces clear and convincing evidence that Section 78-57-103 does not shield the moving party  
65           from the action.

66           (3) Any government body to which the moving party's acts were directed or the Attorney  
67           General may intervene to defend or otherwise support the moving party.

68           (4) The court may award a moving party who is dismissed costs of litigation, including  
69           reasonable attorney and expert witness fees incurred in connection with the motion.

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**Legislative Review Note**  
**as of 1-13-99 11:30 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**