

115TH CONGRESS
1ST SESSION

H. R. 725

IN THE SENATE OF THE UNITED STATES

MARCH 13, 2017

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 28, United States Code, to prevent fraudulent
joinder.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Innocent Party Protec-
3 tion Act”.

4 **SEC. 2. PREVENTION OF FRAUDULENT JOINDER.**

5 Section 1447 of title 28, United States Code, is
6 amended by adding at the end the following:

7 “(f) FRAUDULENT JOINDER.—

8 “(1) This subsection shall apply to any case in
9 which—

10 “(A) a civil action is removed solely on the
11 basis of the jurisdiction conferred by section
12 1332(a);

13 “(B) a motion to remand is made on the
14 ground that—

15 “(i) one or more defendants are citi-
16 zens of the same State as one or more
17 plaintiffs; or

18 “(ii) one or more defendants properly
19 joined and served are citizens of the State
20 in which the action was brought; and

21 “(C) the motion is opposed on the ground
22 that the joinder of the defendant or defendants
23 described in subparagraph (B) is fraudulent.

24 “(2) The joinder of a defendant described in
25 paragraph (1)(B) is fraudulent if the court finds
26 that—

1 “(A) there is actual fraud in the pleading
2 of jurisdictional facts with respect to that de-
3 fendant;

4 “(B) based on the complaint and the mate-
5 rials submitted under paragraph (3), it is not
6 plausible to conclude that applicable State law
7 would impose liability on that defendant;

8 “(C) State or Federal law clearly bars all
9 claims in the complaint against that defendant;
10 or

11 “(D) objective evidence clearly dem-
12 onstrates that there is no good faith intention
13 to prosecute the action against that defendant
14 or to seek a joint judgment including that de-
15 fendant.

16 “(3) In determining whether to grant or deny
17 a motion under paragraph (1)(B), the court may
18 permit the pleadings to be amended, and shall con-
19 sider the pleadings, affidavits, and other evidence
20 submitted by the parties.

21 “(4) If the court finds that all defendants de-
22 scribed in paragraph (1)(B) have been fraudulently
23 joined under paragraph (2), it shall dismiss without
24 prejudice the claims against those defendants and

1 shall deny the motion described in paragraph
2 (1)(B).”.

Passed the House of Representatives March 9,
2017.

Attest:

KAREN L. HAAS,

Clerk.