

Union Calendar No. 5

115TH CONGRESS
1ST SESSION

H. R. 725

[Report No. 115–17]

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2017

Mr. BUCK (for himself, Mr. GOODLATTE, Mr. FRANKS of Arizona, Mr. FARENTHOLD, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 24, 2017

Additional sponsor: Mr. SESSIONS

FEBRUARY 24, 2017

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Innocent Party Protec-
5 tion Act”.

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

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

9 “(f) FRAUDULENT JOINDER.—

10 “(1) This subsection shall apply to any case in
11 which—

12 “(A) a civil action is removed solely on the
13 basis of the jurisdiction conferred by section
14 1332(a);

15 “(B) a motion to remand is made on the
16 ground that—

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

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

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

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

4 “(A) there is actual fraud in the pleading
5 of jurisdictional facts with respect to that de-
6 fendant;

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

11 “(C) State or Federal law clearly bars all
12 claims in the complaint against that defendant;
13 or

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

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

24 “(4) If the court finds that all defendants de-
25 scribed in paragraph (1)(B) have been fraudulently

1 joined under paragraph (2), it shall dismiss without
2 prejudice the claims against those defendants and
3 shall deny the motion described in paragraph
4 (1)(B).”.

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