

113TH CONGRESS
2D SESSION

S. 2769

To ensure appropriate judicial review of Federal Government actions by amending the prohibition on the exercise of jurisdiction by the United States Court of Federal Claims of certain claims pending in other courts.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. WICKER (for himself, Mr. TESTER, and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To ensure appropriate judicial review of Federal Government actions by amending the prohibition on the exercise of jurisdiction by the United States Court of Federal Claims of certain claims pending in other courts.

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. JURISDICTION OF UNITED STATES COURT OF**
4 **FEDERAL CLAIMS.**

5 (a) AMENDMENTS TO TITLE 28, UNITED STATES
6 CODE.—

7 (1) IN GENERAL.—Section 1500 of title 28,
8 United States Code, is amended to read as follows:

1 **“§ 1500. Presumption of stay**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘court’ means any of the courts
4 described in section 610; and

5 “(2) the term ‘Court of Federal Claims’ means
6 the United States Court of Federal Claims.

7 “(b) PRESUMPTION OF STAY.—Except as provided in
8 subsection (d), if a civil action is pending in, or on appeal
9 from, the Court of Federal Claims, and the plaintiff or
10 assignee of the plaintiff also has pending in any other
11 court a civil action that includes a claim against the
12 United States or an agency or officer of the United States
13 arising from substantially the same set of operative facts,
14 the court presiding over the action that was filed later
15 shall stay the action, in whole or in part, until the action
16 that was filed first is no longer pending.

17 “(c) DETERMINING FIRST-FILED ACTION.—

18 “(1) APPEALS.—For purposes of subsection
19 (b), the date of filing for a civil action that is pend-
20 ing on appeal from the Court of Federal Claims is
21 the date on which the action was filed in the Court
22 of Federal Claims.

23 “(2) ACTIONS OR APPEALS FILED ON SAME
24 DAY.—For purposes of subsection (b), if the actions
25 described in subsection (b) were filed on the same
26 day, without regard to the time of day, the action

1 that is pending in, or on appeal from, the Court of
 2 Federal Claims shall be treated as having been filed
 3 first.

4 “(d) EXCEPTIONS.—The requirement to stay an ac-
 5 tion under subsection (b) shall not apply if—

6 “(1) the parties in each of the actions that in-
 7 clude a claim based on substantially the same set of
 8 operative facts otherwise agree; or

9 “(2) the required stay is not, or ceases to be,
 10 in the interests of justice.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 91 of title
 13 28, United States Code, is amended by striking the
 14 item relating to section 1500 and inserting the fol-
 15 lowing:

“1500. Presumption of stay.”.

16 (b) APPLICABILITY.—

17 (1) IN GENERAL.—Section 1500 of title 28,
 18 United States Code, as amended by subsection (a),
 19 shall apply to any action pending on or after the
 20 date of enactment of this Act, unless the action filed
 21 later (as determined in accordance with such sec-
 22 tion) is pending in a court of appeals of the United
 23 States or the Supreme Court of the United States.

24 (2) PREVIOUS JURISDICTIONAL BAR.—No claim
 25 in an action pending in which appellate rights have

1 not been exhausted on or after the date of enact-
2 ment of this Act shall be subject to the jurisdictional
3 bar under section 1500 of title 28, United States
4 Code, as in effect on the day before the date of en-
5 actment of this Act.

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