

## Union Calendar No. 5

115<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 725

[Report No. 115–17]

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

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### 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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