

111TH CONGRESS
2^D SESSION

H. R. 5281

IN THE SENATE OF THE UNITED STATES

JULY 28, 2010

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

AN ACT

To amend title 28, United States Code, to clarify and improve certain provisions relating to the removal of litigation against Federal officers or agencies to Federal courts, and for other purposes.

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 “Removal Clarification
3 Act of 2010”.

4 **SEC. 2. REMOVAL OF CERTAIN LITIGATION TO FEDERAL**
5 **COURTS.**

6 (a) CLARIFICATION OF INCLUSION OF CERTAIN
7 TYPES OF PROCEEDINGS.—Section 1442 of title 28,
8 United States Code, is amended by adding at the end the
9 following:

10 “(c) As used in subsection (a)—

11 “(1) the terms ‘civil action’ and ‘criminal pros-
12 ecution’ include any proceeding (whether or not an-
13 cillary to another proceeding) to the extent that in
14 such proceeding a judicial order, including a sub-
15 poena for testimony or documents, is sought or
16 issued; and

17 “(2) the term ‘against’ when used with respect
18 to such a proceeding includes directed to.”.

19 (b) CONFORMING AMENDMENTS.—Section 1442(a)
20 of title 28, United States Code, is amended—

21 (1) in paragraph (1)—

22 (A) by striking “capacity for” and insert-
23 ing “capacity, for or relating to”; and

24 (B) by striking “sued”; and

25 (2) in each of paragraphs (3) and (4), by in-
26 serting “or relating to” after “for”.

1 (c) APPLICATION OF TIMING REQUIREMENT.—Sec-
2 tion 1446 of title 28, United States Code, is amended by
3 adding at the end the following:

4 “(g)(1) Where the civil action or criminal prosecution
5 that is removable under section 1442(a) is a proceeding
6 in which a judicial order for testimony or documents is
7 sought or issued, the thirty-day requirement of subsections
8 (b) and (c) is satisfied if the person or entity desiring to
9 remove the proceeding files the notice of removal not later
10 than thirty days after receiving, through service, notice of
11 that proceeding.

12 “(2) Where the civil action or criminal prosecution
13 that is removable under section 1442(a) is a proceeding
14 in which a judicial order described in paragraph (1) is
15 sought to be enforced, the thirty-day requirement of sub-
16 sections (b) and (c) is satisfied if the person or entity de-
17 siring to remove the proceeding files the notice of removal
18 not later than thirty days after receiving, through service,
19 notice of that proceeding.”.

20 (d) REVIEWABILITY ON APPEAL.—Section 1447(d) of
21 title 28, United States Code, is amended by inserting
22 “1442 or” before “1443”.

23 **SEC. 3. PAYGO COMPLIANCE.**

24 The budgetary effects of this Act, for the purpose of
25 complying with the Statutory Pay-As-You-Go Act of 2010,

1 shall be determined by reference to the latest statement
2 titled “Budgetary Effects of PAYGO Legislation” for this
3 Act, submitted for printing in the Congressional Record
4 by the Chairman of the House Budget Committee, pro-
5 vided that such statement has been submitted prior to the
6 vote on passage.

Passed the House of Representatives July 27, 2010.

Attest:

LORRAINE C. MILLER,

Clerk.