

106TH CONGRESS
1ST SESSION

H. R. 1875

To amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1999

Mr. GOODLATTE (for himself, Mr. BOUCHER, Mr. BRYANT, Mr. MORAN of Virginia, Mr. DELAY, Mr. ARMEY, Mr. HYDE, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. GEKAS, Mr. SMITH of Texas, Mr. GALLEGLY, Mr. CANADY of Florida, Mr. CHABOT, Mr. BARR of Georgia, Mr. HUTCHINSON, Mr. CANNON, Mr. ROGAN, Mrs. BONO, Mr. BLILEY, Mr. COX, Mr. CRAMER, Mr. DREIER, Mr. GOODE, Mr. HOLDEN, Mr. JOHN, Mrs. JOHNSON of Connecticut, Mr. LINDER, Mr. OXLEY, Mr. STENHOLM, Mr. SUNUNU, and Mr. UPTON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions.

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 AND REFERENCE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Interstate Class Action Jurisdiction Act of 1999”.

1 (b) REFERENCE.—Whenever in this Act reference is
2 made to an amendment to, or repeal of, a section or other
3 provision, the reference shall be considered to be made to
4 a section or other provision of title 28, United States
5 Code.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) as recently noted by the United States
9 Court of Appeals for the Third Circuit, interstate
10 class actions are “the paradigm for Federal diversity
11 jurisdiction because, in a constitutional sense, they
12 implicate interstate commerce, invite discrimination
13 by a local State, and tend to attract bias against
14 business enterprises”;

15 (2) most such cases, however, fall outside the
16 scope of current Federal diversity jurisdiction stat-
17 utes;

18 (3) that exclusion is an unintended technicality,
19 inasmuch as those statutes were enacted by Con-
20 gress before the rise of the modern class action and
21 therefore without recognition that interstate class
22 actions typically are substantial controversies of the
23 type for which diversity jurisdiction was designed;

24 (4) Congress is constitutionally empowered to
25 amend the current Federal diversity jurisdiction

1 statutes to permit most interstate class actions to be
2 brought in or removed to Federal district courts;
3 and

4 (5) in order to ensure that interstate class ac-
5 tions are adjudicated in a fair, consistent, and effi-
6 cient manner and to correct the unintended, tech-
7 nical exclusion of such cases from the scope of Fed-
8 eral diversity jurisdiction, it is appropriate for Con-
9 gress to amend the Federal diversity jurisdiction and
10 related statutes to allow more interstate class ac-
11 tions to be brought in or removed to Federal court.

12 **SEC. 3. JURISDICTION OF DISTRICT COURTS.**

13 (a) EXPANSION OF FEDERAL JURISDICTION.—Sec-
14 tion 1332 is amended by redesignating subsections (b),
15 (c), and (d) as subsections (c), (d), and (e), respectively,
16 and by inserting after subsection (a) the following:

17 “(b)(1) The district courts shall have original juris-
18 diction of any civil action which is brought as a class ac-
19 tion and in which—

20 “(A) any member of a proposed plaintiff class
21 is a citizen of a State different from any defendant;

22 “(B) any member of a proposed plaintiff class
23 is a foreign state and any defendant is a citizen of
24 a State; or

1 “(C) any member of a proposed plaintiff class
2 is a citizen of a State and any defendant is a citizen
3 or subject of a foreign state.”

4 As used in this paragraph, the term ‘foreign state’ has
5 the meaning given that term in section 1603(a).

6 “(2)(A) The district courts shall not exercise jurisdic-
7 tion over a civil action described in paragraph (1) if the
8 action is—

9 “(i) an intrastate case,

10 “(ii) a limited scope case, or

11 “(iii) a State action case.

12 For purposes of this subparagraph, the term ‘intrastate
13 case’ means a class action in which the record indicates
14 that the claims asserted therein will be governed primarily
15 by the laws of the State in which the action was originally
16 filed and the substantial majority of the members of all
17 proposed plaintiff classes are citizens of that State of
18 which the primary defendants are also citizens. For pur-
19 poses of this subparagraph, the term ‘limited scope case’
20 means a class action in which the record indicates that
21 all matters in controversy asserted by all members of all
22 proposed plaintiff classes do not in the aggregate exceed
23 the sum or value of \$1,000,000, exclusive of interest and
24 costs, or a class action in which the number of members
25 of all proposed plaintiff classes in the aggregate is less

1 than 100. For purposes of this subparagraph, the term
2 ‘State action case’ means a class action in which the pri-
3 mary defendants are States, State officials, or other gov-
4 ernmental entities against whom the district court may be
5 foreclosed from ordering relief.

6 “(3)(A) Paragraph (1) shall not apply to any claim
7 concerning a covered security as that term is defined in
8 section 16(f)(3) of the Securities Act of 1933 and section
9 28(f)(5)(E) of the Securities Exchange Act of 1934.”.

10 (b) CONFORMING AMENDMENT.—Section 1332(c) (as
11 redesignated by this section) is amended by inserting after
12 “Federal courts” the following: “pursuant to subsection
13 (a) of this section”.

14 (c) DETERMINATION OF DIVERSITY.—Section 1332,
15 as amended by this section, is further amended by adding
16 at the end the following:

17 “(f) For purposes of subsection (b), a member of a
18 proposed class shall be deemed to be a citizen of a State
19 different from a defendant corporation only if that mem-
20 ber is a citizen of a State different from all States of which
21 the defendant corporation is deemed a citizen.”.

22 **SEC. 4. REMOVAL OF CLASS ACTIONS.**

23 (a) IN GENERAL.—Chapter 89 is amended by adding
24 after section 1452 the following:

1 **“§ 1453. Removal of class actions**

2 “(a) IN GENERAL.—A class action may be removed
3 to a district court of the United States in accordance with
4 this chapter, except that such action may be removed—

5 “(1) by any defendant without the consent of
6 all defendants; or

7 “(2) by any plaintiff class member who is not
8 a named or representative class member of the ac-
9 tion for which removal is sought, without the con-
10 sent of all members of such class.

11 “(b) WHEN REMOVABLE.—This section shall apply
12 to any class action before or after the entry of any order
13 certifying a class.

14 “(c) PROCEDURE FOR REMOVAL.—The provisions of
15 section 1446(a) relating to a defendant removing a case
16 shall apply to a plaintiff removing a case under this sec-
17 tion. With respect to the application of subsection (b) of
18 such section, the requirement relating to the 30-day filing
19 period shall be met if a plaintiff class member who is not
20 a named or representative class member of the action for
21 which removal is sought files notice of removal no later
22 than 30 days after receipt by such class member, through
23 service or otherwise, of the initial written notice of the
24 class action provided at the court’s direction.

25 “(d) EXCEPTION.—This section shall not apply to
26 any claim concerning a covered security as that term is

1 defined in section 16(f)(3) of the Securities Act of 1933
2 and section 28(f)(5)(E) of the Securities Exchange Act of
3 1934.”.

4 (b) REMOVAL LIMITATIONS.—Section 1446(b) is
5 amended in the second sentence—

6 (1) by inserting “, by exercising due diligence,”
7 after “ascertained”; and

8 (2) by inserting “(a)” after “section 1332.”

9 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
10 The table of sections for chapter 89 is amended by adding
11 after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

12 (d) APPLICATION OF SUBSTANTIVE STATE LAW.—
13 Nothing in this section or the amendments made by this
14 section shall alter the substantive law applicable to an ac-
15 tion to which the amendments made by section 2 of this
16 Act apply.

17 (e) PROCEDURE AFTER REMOVAL.—Section 1447 is
18 amended by adding at the end the following new sub-
19 section:

20 “(f) If, after removal, the court determines that no
21 aspect of an action that is subject to its jurisdiction solely
22 under the provisions of section 1332(b) may be maintained
23 as a class action under Rule 23 of the Federal Rules of
24 Civil Procedure, it shall dismiss the action. An action dis-
25 missed pursuant to this subsection may be filed again in

1 a State court, but any such refiled action may be removed
2 again if it is an action of which the district courts of the
3 United States have original jurisdiction. In any action dis-
4 missed pursuant to this subsection, the period of limita-
5 tions for any claim that was asserted in the action on be-
6 half of any named or unnamed member of any proposed
7 class shall be deemed tolled to the full extent provided
8 under Federal law.”.

9 **SEC. 5. APPLICABILITY.**

10 The amendments made by this Act shall apply to any
11 action commenced on or after the date of the enactment
12 of this Act.

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