

AMENDMENT IN THE NATURE OF A SUBSTITUTE то Н.К. 3624

OFFERED BY MR. BUCK OF COLORADO

Strike all after the enacting clause and insert the following:

1	SECTION 1. SHORT TITLE.
2	This Act may be cited as the "Fraudulent Joinder
3	Prevention Act of 2016".
4	SEC. 2. PREVENTION OF FRAUDULENT JOINDER.
5	Section 1447 of title 28, United States Code, is
6	amended by adding at the end the following:
7	"(f) Fraudulent Joinder.—
8	"(1) This subsection shall apply to any case in
9	which—
10	"(A) a civil action is removed solely on the
11	basis of the jurisdiction conferred by section
12	1332(a);
13	"(B) a motion to remand is made on the
14	ground that—
15	"(i) one or more defendants are citi-
16	zens of the same State as one or more
17	plaintiffs; or

F:\MDB\2016\JUD\CON\$T\PT_001.XML

1	"(ii) one or more defendants properly
2	joined and served are citizens of the State
3	in which the action was brought; and
4	"(C) the motion is opposed on the ground
5	that the joinder of the defendant or defendants
6	described in subparagraph (B) is fraudulent.
7	"(2) The joinder of the defendant or defendants
8	described in paragraph (1) (B) is fraudulent if the
9	court finds that—
10	"(A) there is actual fraud in the pleading
11	of jurisdictional facts;
12	"(B) based on the complaint and the mate-
13	rials submitted under paragraph (3), it is not
14	plausible to conclude that applicable State law
15	would impose liability on each defendant de-
16	scribed in paragraph (1)(B);
17	"(C) State or Federal law clearly bars all
18	claims in the complaint against all defendants
19	described in paragraph (1)(B); or
20	"(D) objective evidence clearly dem-
21	onstrates that there is no good faith intention
22	to prosecute the action against all defendants
23	described in paragraph (1)(B) or to seek a joint
24	judgment.

1	"(3) In determining whether to grant or deny
2	a motion under paragraph (1)(B), the court may
3	permit the pleadings to be amended, and shall con-
4	sider the pleadings, affidavits, and other evidence
5	submitted by the parties.
6	"(4) If the court finds fraudulent joinder under
7	paragraph (2), it shall dismiss without prejudice the
8	claims against the defendant or defendants found to
9	have been fraudulently joined and shall deny the mo-
10	tion described in paragraph (1)(B).".

