

115TH CONGRESS  
1ST SESSION

# H. R. 725

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IN THE SENATE OF THE UNITED STATES

MARCH 13, 2017

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

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Innocent Party Protec-  
3 tion Act”.

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

18 “(ii) one or more defendants properly  
19 joined and served are citizens of the State  
20 in which the action was brought; and

21 “(C) the motion is opposed on the ground  
22 that the joinder of the defendant or defendants  
23 described in subparagraph (B) is fraudulent.

24 “(2) The joinder of a defendant described in  
25 paragraph (1)(B) is fraudulent if the court finds  
26 that—

1           “(A) there is actual fraud in the pleading  
2 of jurisdictional facts with respect to that de-  
3 fendant;

4           “(B) based on the complaint and the mate-  
5 rials submitted under paragraph (3), it is not  
6 plausible to conclude that applicable State law  
7 would impose liability on that defendant;

8           “(C) State or Federal law clearly bars all  
9 claims in the complaint against that defendant;  
10 or

11           “(D) objective evidence clearly dem-  
12 onstrates that there is no good faith intention  
13 to prosecute the action against that defendant  
14 or to seek a joint judgment including that de-  
15 fendant.

16           “(3) In determining whether to grant or deny  
17 a motion under paragraph (1)(B), the court may  
18 permit the pleadings to be amended, and shall con-  
19 sider the pleadings, affidavits, and other evidence  
20 submitted by the parties.

21           “(4) If the court finds that all defendants de-  
22 scribed in paragraph (1)(B) have been fraudulently  
23 joined under paragraph (2), it shall dismiss without  
24 prejudice the claims against those defendants and

1 shall deny the motion described in paragraph  
2 (1)(B).”.

Passed the House of Representatives March 9,  
2017.

Attest:

KAREN L. HAAS,

*Clerk.*