

106TH CONGRESS
1ST SESSION

H. R. 1875

IN THE SENATE OF THE UNITED STATES

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Received

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Read twice and referred to the Committee on the Judiciary

AN ACT

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,*

1 **SECTION 1. SHORT TITLE AND REFERENCE.**

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

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

9 **SEC. 2. FINDINGS.**

10 The Congress finds that—

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

18 (2) most such cases, however, fall outside the
19 scope of current Federal diversity jurisdiction stat-
20 utes;

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

1 (4) Congress is constitutionally empowered to
2 amend the current Federal diversity jurisdiction
3 statutes to permit most interstate class actions to be
4 brought in or removed to Federal district courts;
5 and

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

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

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

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

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

1 “(B) any member of a proposed plaintiff class
2 is a foreign state and any defendant is a citizen of
3 a State; or

4 “(C) any member of a proposed plaintiff class
5 is a citizen of a State and any defendant is a citizen
6 or subject of a foreign state.

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

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

12 “(i) an intrastate case;

13 “(ii) a limited scope case; or

14 “(iii) a State action case.

15 “(B) For purposes of subparagraph (A)—

16 “(i) the term ‘intrastate case’ means a class ac-
17 tion in which the record indicates that—

18 “(I) the claims asserted therein will be
19 governed primarily by the laws of the State in
20 which the action was originally filed; and

21 “(II) the substantial majority of the mem-
22 bers of all proposed plaintiff classes, and the
23 primary defendants, are citizens of the State in
24 which the action was originally filed;

1 “(ii) the term ‘limited scope case’ means a class
2 action in which the record indicates that all matters
3 in controversy asserted by all members of all pro-
4 posed plaintiff classes do not in the aggregate exceed
5 the sum or value of \$1,000,000, exclusive of interest
6 and costs, or a class action in which the number of
7 members of all proposed plaintiff classes in the ag-
8 gregate is less than 100; and

9 “(iii) the term ‘State action case’ means a class
10 action in which the primary defendants are States,
11 State officials, or other governmental entities
12 against whom the district court may be foreclosed
13 from ordering relief.

14 “(3) Paragraph (1) shall not apply to any claim con-
15 cerning a covered security as that term is defined in sec-
16 tion 16(f)(3) of the Securities Act of 1933 and section
17 28(f)(5)(E) of the Securities Exchange Act of 1934.

18 “(4) Paragraph (1) shall not apply to any class action
19 solely involving a claim that relates to—

20 “(A) the internal affairs or governance of a cor-
21 poration or other form of business enterprise and
22 that arises under or by virtue of the laws of the
23 State in which such corporation or business enter-
24 prise is incorporated or organized; or

1 “(B) the rights, duties (including fiduciary du-
2 ties), and obligations relating to or created by or
3 pursuant to any security (as defined under section
4 2(a)(1) of the Securities Act of 1933 and the regula-
5 tions issued thereunder).”.

6 (b) CONFORMING AMENDMENT.—Section 1332(c) (as
7 redesignated by this section) is amended by inserting after
8 “Federal courts” the following: “pursuant to subsection
9 (a) of this section”.

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

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

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

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

21 **“§ 1453. Removal of class actions**

22 “(a) IN GENERAL.—A class action may be removed
23 to a district court of the United States in accordance with
24 this chapter, but without regard to whether any defendant

1 is a citizen of the State in which the action is brought,
2 except that such action may be removed—

3 “(1) by any defendant without the consent of
4 all defendants; or

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

9 “(b) WHEN REMOVABLE.—This section shall apply
10 to any class action before or after the entry of any order
11 certifying a class, except that a plaintiff class member who
12 is not a named or representative class member of the ac-
13 tion may not seek removal of the action before an order
14 certifying a class of which the plaintiff is a class member
15 has been entered.

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

1 service or otherwise, of the initial written notice of the
2 class action provided at the court’s direction.

3 “(d) EXCEPTIONS.—

4 “(1) COVERED SECURITIES.—This section shall
5 not apply to any claim concerning a covered security
6 as that term is defined in section 16(f)(3) of the Se-
7 curities Act of 1933 and section 28(f)(5)(E) of the
8 Securities Exchange Act of 1934.

9 “(2) INTERNAL GOVERNANCE OF BUSINESS EN-
10 TITIES.—This section shall not apply to any class
11 action solely involving a claim that relates to—

12 “(A) the internal affairs or governance of
13 a corporation or other form of business enter-
14 prise and that arises under or by virtue of the
15 laws of the State in which such corporation or
16 business enterprise is incorporated or orga-
17 nized; or

18 “(B) the rights, duties (including fiduciary
19 duties), and obligations relating to or created
20 by or pursuant to any security (as defined
21 under section 2(a)(1) of the Securities Act of
22 1933 and the regulations issued thereunder).”.

23 (b) REMOVAL LIMITATIONS.—Section 1446(b) is
24 amended in the second sentence—

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

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

4 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

5 The table of sections for chapter 89 is amended by adding
6 after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

7 (d) APPLICATION OF SUBSTANTIVE STATE LAW.—

8 Nothing in this section or the amendments made by this
9 section shall alter the substantive law applicable to an ac-
10 tion to which the amendments made by section 3 of this
11 Act apply.

12 (e) PROCEDURE AFTER REMOVAL.—Section 1447 is
13 amended by adding at the end the following new sub-
14 section:

15 “(f) If, after removal, the court determines that no
16 aspect of an action that is subject to its jurisdiction solely
17 under the provisions of section 1332(b) may be maintained
18 as a class action under Rule 23 of the Federal Rules of
19 Civil Procedure, it shall dismiss the action. An action dis-
20 missed pursuant to this subsection may be amended and
21 filed again in a State court, but any such refiled action
22 may be removed again if it is an action of which the dis-
23 trict courts of the United States have original jurisdiction.
24 In any action that is dismissed pursuant to this subsection
25 and that is refiled by any of the named plaintiffs therein

1 in the same State court venue in which the dismissed ac-
2 tion was originally filed, the limitations periods on all re-
3 asserted claims shall be deemed tolled for the period dur-
4 ing which the dismissed class action was pending. The lim-
5 itations periods on any claims that were asserted in a class
6 action dismissed pursuant to this subsection that are sub-
7 sequently asserted in an individual action shall be deemed
8 tolled for the period during which the dismissed class ac-
9 tion was pending.”.

10 **SEC. 5. APPLICABILITY.**

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

14 **SEC. 6. GAO STUDY.**

15 The Comptroller General of the United States shall,
16 by not later than 1 year after the date of the enactment
17 of this Act, conduct a study of the impact of the amend-
18 ments made by this Act on the workload of the Federal
19 courts and report to the Congress on the results of the
20 study.

Passed the House of Representatives September 23,
1999.

Attest:

JEFF TRANDAHL,

Clerk.