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112TH CONGRESS
1ST SESSION

H. R. 368

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2011
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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Removal Clarification Act of 2011''.

SEC. 2. REMOVAL OF CERTAIN LITIGATION TO FEDERAL COURTS.

(a) CLARIFICATION OF INCLUSION OF CERTAIN TYPES OF PROCEEDINGS.—Section 1442 of title 28, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by inserting ''that is'' after ''or criminal prosecution'';

(B) by inserting ''and that is'' after ''in a State court''; and

(C) by inserting ''or directed to'' after ''against''; and

(2) by adding at the end the following:

''(c) As used in subsection (a), the terms 'civil action' and 'criminal prosecution' include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.''.

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

(1) in paragraph (1)—

(A) by striking ''capacity for'' and inserting ''capacity, for or relating to''; and

(B) by striking ''sued''; and

(2) in each of paragraphs (3) and (4), by inserting ''or relating to'' after ''for''.

(c) APPLICATION OF TIMING REQUIREMENT.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

''(g) Where the civil action or criminal prosecution that is removable under section 1442(a) is a proceeding in which a judicial order for testimony or documents is sought or issued or sought to be enforced, the 30-day requirement of subsections (b) and (c) is satisfied if the person or entity desiring to remove the proceeding files the notice of removal not later than 30 days after receiving, through service, notice of any such proceeding.''.

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

Passed the House of Representatives February 28, 2011.

Attest: KAREN L. HAAS,

Clerk.