

# Union Calendar No. 321

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3624

[Report No. 114-422]

To amend title 28, United States Code, to prevent fraudulent joinder.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2015

Mr. BUCK introduced the following bill; which was referred to the Committee  
on the Judiciary

FEBRUARY 16, 2016

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 28, 2015]

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “Fraudulent Joinder Pre-*  
5 *vention Act of 2016”.*

6 **SEC. 2. PREVENTION OF FRAUDULENT JOINDER.**

7       *Section 1447 of title 28, United States Code, is amend-*  
8 *ed by adding at the end the following:*

9       “(f) *FRAUDULENT JOINDER.*—

10           “(1) *This subsection shall apply to any case in*  
11 *which—*

12                   “(A) *a civil action is removed solely on the*  
13 *basis of the jurisdiction conferred by section*  
14 *1332(a);*

15                   “(B) *a motion to remand is made on the*  
16 *ground that—*

17                           “(i) *one or more defendants are citi-*  
18 *zens of the same State as one or more plain-*  
19 *tiffs; or*

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

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

1           “(2) *The joinder of the defendant or defendants*  
2 *described in paragraph (1) (B) is fraudulent if the*  
3 *court finds that—*

4                   “(A) *there is actual fraud in the pleading*  
5 *of jurisdictional facts;*

6                   “(B) *based on the complaint and the mate-*  
7 *rials submitted under paragraph (3), it is not*  
8 *plausible to conclude that applicable State law*  
9 *would impose liability on each defendant de-*  
10 *scribed in paragraph (1)(B);*

11                   “(C) *State or Federal law clearly bars all*  
12 *claims in the complaint against all defendants*  
13 *described in paragraph (1)(B); or*

14                   “(D) *objective evidence clearly demonstrates*  
15 *that there is no good faith intention to prosecute*  
16 *the action against all defendants described in*  
17 *paragraph (1)(B) or to seek a joint judgment.*

18           “(3) *In determining whether to grant or deny a*  
19 *motion under paragraph (1)(B), the court may per-*  
20 *mit the pleadings to be amended, and shall consider*  
21 *the pleadings, affidavits, and other evidence submitted*  
22 *by the parties.*

23           “(4) *If the court finds fraudulent joinder under*  
24 *paragraph (2), it shall dismiss without prejudice the*  
25 *claims against the defendant or defendants found to*

1        *have been fraudulently joined and shall deny the mo-*  
2        *tion described in paragraph (1)(B).”.*

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