



H.R. 3624 – Fraudulent Joinder Prevention Act of 2016 (Rep. Buck, R-CO)

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FLOOR SCHEDULE:

Scheduled for consideration on February 25, 2016, under a structured [rule](#).

TOPLINE SUMMARY:

[H.R. 3624](#) would set a uniform standard for determining whether a defendant has been fraudulently joined to a lawsuit for the purposes of defeating federal diversity jurisdiction. This bill would also clarify that Federal courts can consider evidence outside of pleadings in deciding motions to remand cases removed to Federal Court.

COST:

The Congressional Budget Office (CBO) [estimates](#) that there would be no substantial effect on the workload of federal courts, and that discretionary costs would be insignificant.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Under current law regarding Federal jurisdiction, trial lawyers have the ability to keep cases in state courts if they sue a defendant from another state, so long as they also sue a defendant in the state in which the case is filed. This practice, defeating Federal jurisdiction, has in the past been abused by trial lawyers that fraudulently sue defendants in the state of filing, even if those claims have little to no merit. This allows trial lawyers to keep cases in preferential state court forums at the expense to the local defendant

If the locally joined defendant has no true connection to the controversy in question, this joinder is referred to as “fraudulent joinder.” The fraudulent joinder doctrine has been recognized by the Supreme Court since the early 20th century and [allows](#) for an exception to the complete diversity rule to prevent plaintiff efforts to deny defendants the protections of a federal court forum to which they are entitled. Despite this provision, the Supreme Court has not clarified fraudulent joinder since the early 1900s, and lower courts are forced to consider the rule on a case-by-case basis, often with vastly differing results. Because the rules are often complicated, the district court will frequently remand the case to state court, where the local defendant is often dropped altogether. Though they are often eventually dropped from the case, extreme

harm has already occurred, as these defendants, who are often individuals or small businesses, incur huge costs in their defense.

H.R. 3624 would address the abuse surrounding fraudulent joinder by adopting a uniform standard for determining whether a defendant has been fraudulently joined to a lawsuit for the purposes of defeating federal diversity jurisdiction. It would make clear that the standard only applies to cases that are removed under the [general diversity statute](#) and when there is a motion to remand on the ground that joinder of another defendant would destroy complete diversity or would violate the [forum defendant rule](#). Meaning, the provision would apply to motions for remand when one or more defendants are citizens of the same state as one or more plaintiffs, or if one or more defendants that are properly joined are citizens of the state in which the case was brought. The legislation would only apply if the motion to remand is opposed on the grounds that the joinder was fraudulent.

The joinder would be fraudulent if the court finds that: (1) there is actual fraud in the pleading of jurisdictional facts; (2) based on the complaint and materials submitted to the court, it is implausible to affirm that State law would impose liability on each defendant; (3) State or Federal law bars all of the claims against all defendants; or (4) objective evidence indicates there is a lack of good faith intention to prosecute all of the defendants. This bill would also clarify that Federal courts can consider evidence outside of pleadings in deciding motions to remand cases removed to Federal Court.

Should the court find that there is indeed a fraudulent joinder of defendant(s), the court would dismiss without prejudice all claims fraudulently joined and deny the motion to remand.

The Committee Report can be found [here](#).

AMENDMENTS

1. [Cartwright \(D-PA\)](#) – This amendment would create a separate exception for plaintiffs that are seeking compensation from insurers acting in bad faith.
2. [Buck \(R-CO\)](#) – Manager’s Amendment – This amendment would make technical changes to the bill and strike references to multiple defendants and replace them with references to single defendants.

OUTSIDE GROUPS IN SUPPORT

[U.S. Chamber of Commerce](#)

COMMITTEE ACTION:

H.R. 3624 was introduced on September 28, 2015 and was referred to the House Committee on the Judiciary, where it was ordered reported, amended on February 3, 2016.

ADMINISTRATION POSITION:

A Statement of Administration Policy can be found [here](#).

CONSTITUTIONAL AUTHORITY:

According to the sponsor, Congress has the power to enact this legislation pursuant to: Article I, Section 8, clause 9; Article III, Section 1, clause I; and Article III Section 2, clause 2 of the Constitution, which grant Congress authority over the federal courts.

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