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(Original Signature of Member)

115TH CONGRESS
1ST SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

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

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 “Innocent Party Protec-
5 tion Act”.

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

7 Section 1447 of title 28, United States Code, is
8 amended by adding at the end the following:

9 “(f) FRAUDULENT JOINDER.—

1 “(1) This subsection shall apply to any case in
2 which—

3 “(A) a civil action is removed solely on the
4 basis of the jurisdiction conferred by section
5 1332(a);

6 “(B) a motion to remand is made on the
7 ground that—

8 “(i) one or more defendants are citi-
9 zens of the same State as one or more
10 plaintiffs; or

11 “(ii) one or more defendants properly
12 joined and served are citizens of the State
13 in which the action was brought; and

14 “(C) the motion is opposed on the ground
15 that the joinder of the defendant or defendants
16 described in subparagraph (B) is fraudulent.

17 “(2) The joinder of a defendant described in
18 paragraph (1)(B) is fraudulent if the court finds
19 that—

20 “(A) there is actual fraud in the pleading
21 of jurisdictional facts with respect to that de-
22 fendant;

23 “(B) based on the complaint and the mate-
24 rials submitted under paragraph (3), it is not

1 plausible to conclude that applicable State law
2 would impose liability on that defendant;

3 “(C) State or Federal law clearly bars all
4 claims in the complaint against that defendant;
5 or

6 “(D) objective evidence clearly dem-
7 onstrates that there is no good faith intention
8 to prosecute the action against that defendant
9 or to seek a joint judgment including that de-
10 fendant.

11 “(3) In determining whether to grant or deny
12 a motion under paragraph (1)(B), the court may
13 permit the pleadings to be amended, and shall con-
14 sider the pleadings, affidavits, and other evidence
15 submitted by the parties.

16 “(4) If the court finds that all defendants de-
17 scribed in paragraph (1)(B) have been fraudulently
18 joined under paragraph (2), it shall dismiss without
19 prejudice the claims against those defendants and
20 shall deny the motion described in paragraph
21 (1)(B).”.