

[H.R. 3624, Fraudulent Joinder Prevention Act of 2016](#)

FLOOR SITUATION

On Thursday, February 25, 2016, the House will begin consideration of [H.R. 3624](#), the Fraudulent Joinder Prevention Act of 2016, under a rule. H.R. 3624 was introduced on September 28, 2015 by Rep. Ken Buck (R-CO) and was referred to the Committee on Judiciary, which ordered the bill reported by a vote of 13 to 10 on February 3, 2016.

SUMMARY

H.R. 3624 establishes a uniform standard for determining whether a defendant has been fraudulently joined to a lawsuit in order to defeat federal diversity jurisdiction. In addition, the legislation also makes clear that Federal courts may consider evidence outside the pleadings when deciding a motion to remand a case that been removed to Federal Court, as well as whether the plaintiff has shown a good faith intent to pursue a judgment against a non-diverse defendant.

BACKGROUND

Under current law, plaintiffs can choose to bring certain claims in federal or state court. In some cases, plaintiffs may view state courts as more favorable because of litigation strategy or timing, whereas, defendants may view federal courts as more desirable. In such cases, courts must determine which jurisdiction is proper.¹ The law of federal jurisdiction allows trial lawyers to keep a case in state court if they sue a defendant from another state as long as they also sue a local defendant in the state in which they are filing the case. According to the committee, this has been a practice abused by trial lawyers.² Under H.R. 3624, federal courts would have to deny a motion to transfer if they find that the plaintiff has misrepresented a defendant's state of citizenship, made a claim against a specific defendant that is not plausible under current state law, or is not made in good faith.³

¹ See [CBO Score on H.R. 3624](#)

² See [House Report 114-422](#) at 2.

³ See [CBO Score on H.R. 3624](#)

A “fraudulently joinded” defendant is a local defendant who has no proper connection to the controversy. In the early 1900’s, the Supreme Court established the fraudulent joinder doctrine, which allows the district court to disregard the citizenship of certain nondiverse defendants and prevents plaintiff’s attempts to deprive a party of the right to sue in Federal court. However, the Court has not elaborated upon the doctrine since first recognizing it in the 1900’s.⁴

In testimony provided to the Committee, “Plaintiffs’ attorneys have a strong incentive in lawsuits targeting out-of-state businesses to name as an additional defendant a local individual or business that had only a tangential or peripheral role in the case. Doing so allows the plaintiff’s lawyer to litigate the case in a state court viewed as favorable to the plaintiff, whether due to a perception of bias against out-of-state defendants, procedures that favor plaintiffs, or other advantages.”⁵ Oftentimes a defendant is removed from litigation once the case has been remanded to a state court, but by that point significant harm has been placed on the individual or business. According to the Committee, this bill will provide out-of-state defendants a better opportunity to secure a neutral federal forum and protect local individuals and small businesses from being dragged into a courtroom when any involvement is “peripheral at best.”⁶

COST

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 3624 would not have a substantial effect on the workload of the federal courts and therefore would not include significant costs to discretionary spending. Because enacting the bill would not affect direct spending or revenues, pay-as-you go procedures do not apply.

AMENDMENTS

STAFF CONTACT

For questions or further information please contact [Jake Vreeburg](#) with the House Republican Policy Committee by email or at 3-1555.

⁴ See [House Report 114-422](#) at 3.

⁵ *Id.*

⁶ *Id.* at 3