

Public Law 112–63
112th Congress

An Act

Dec. 7, 2011
[H.R. 394]

To amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes.

Federal Courts
Jurisdiction and
Venue
Clarification Act
of 2011.
28 USC 1 note.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Courts Jurisdiction and Venue Clarification Act of 2011”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JURISDICTIONAL IMPROVEMENTS

Sec. 101. Treatment of resident aliens.

Sec. 102. Citizenship of corporations and insurance companies with foreign contacts.

Sec. 103. Removal and remand procedures.

Sec. 104. Technical amendment.

Sec. 105. Effective date.

TITLE II—VENUE AND TRANSFER IMPROVEMENTS

Sec. 201. Scope and definitions.

Sec. 202. Venue generally.

Sec. 203. Repeal of section 1392.

Sec. 204. Change of venue.

Sec. 205. Effective date.

**TITLE I—JURISDICTIONAL
IMPROVEMENTS**

SEC. 101. TREATMENT OF RESIDENT ALIENS.

Section 1332(a) of title 28, United States Code, is amended—

(1) by striking the last sentence; and

(2) in paragraph (2), by inserting after “foreign state” the following: “, except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State”.

SEC. 102. CITIZENSHIP OF CORPORATIONS AND INSURANCE COMPANIES WITH FOREIGN CONTACTS.

Section 1332(c)(1) of title 28, United States Code, is amended—

(1) by striking “any State” and inserting “every State and foreign state”;

(2) by striking “the State” and inserting “the State or foreign state”; and

(3) by striking all that follows “party-defendant,” and inserting “such insurer shall be deemed a citizen of—

“(A) every State and foreign state of which the insured is a citizen;

“(B) every State and foreign state by which the insurer has been incorporated; and

“(C) the State or foreign state where the insurer has its principal place of business; and”.

SEC. 103. REMOVAL AND REMAND PROCEDURES.

(a) **ACTIONS REMOVABLE GENERALLY.**—Section 1441 of title 28, United States Code, is amended as follows:

(1) The section heading is amended by striking “**Actions removable generally**” and inserting “**Removal of civil actions**”.

(2) Subsection (a) is amended—

(A) by striking “(a) Except” and inserting “(a) **GENERALLY.—Except**”; and

(B) by striking the last sentence;

(3) Subsection (b) is amended to read as follows:

“(b) **REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.**—(1) In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.

“(2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.”.

(4) Subsection (c) is amended to read as follows:

“(c) **JOINDER OF FEDERAL LAW CLAIMS AND STATE LAW CLAIMS.**—(1) If a civil action includes—

“(A) a claim arising under the Constitution, laws, or treaties of the United States (within the meaning of section 1331 of this title), and

“(B) a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made nonremovable by statute,

the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).

“(2) Upon removal of an action described in paragraph (1), the district court shall sever from the action all claims described in paragraph (1)(B) and shall remand the severed claims to the State court from which the action was removed. Only defendants against whom a claim described in paragraph (1)(A) has been asserted are required to join in or consent to the removal under paragraph (1).”.

(5) Subsection (d) is amended by striking “(d) Any” and inserting “(d) **ACTIONS AGAINST FOREIGN STATES.—Any**”.

(6) Subsection (e) is amended by striking “(e)(1) Notwithstanding” and inserting “(e) **MULTIPARTY, MULTIFORUM JURISDICTION.—(1) Notwithstanding**”.

(7) Subsection (f) is amended by striking “(f) The court” and inserting “(f) **DERIVATIVE REMOVAL JURISDICTION.—The court**”.

(b) PROCEDURE FOR REMOVAL OF CIVIL ACTIONS.—Section 1446 of title 28, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

“§ 1446. Procedure for removal of civil actions”.

(2) Subsection (a) is amended—

(A) by striking “(a) A defendant” and inserting “(a) GENERALLY.—A defendant”; and

(B) by striking “or criminal prosecution”.

(3) Subsection (b) is amended—

(A) by striking “(b) The notice” and inserting “(b) REQUIREMENTS; GENERALLY.—(1) The notice”; and

(B) by striking the second paragraph and inserting the following:

Notice. “(2)(A) When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action.

Deadline. “(B) Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal.

“ (C) If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.

Notice. “(3) Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.”;

Deadline. (C) by striking subsection (c) and inserting the following:

“(c) REQUIREMENTS; REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.—(1) A case may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.

“(2) If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332(a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy, except that—

“(A) the notice of removal may assert the amount in controversy if the initial pleading seeks—

“(i) nonmonetary relief; or

“(ii) a money judgment, but the State practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded; and

“(B) removal of the action is proper on the basis of an amount in controversy asserted under subparagraph (A) if the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds the amount specified in section 1332(a).

“(3)(A) If the case stated by the initial pleading is not removable solely because the amount in controversy does not exceed the amount specified in section 1332(a), information relating to the

amount in controversy in the record of the State proceeding, or in responses to discovery, shall be treated as an ‘other paper’ under subsection (b)(3).

“(B) If the notice of removal is filed more than 1 year after commencement of the action and the district court finds that the plaintiff deliberately failed to disclose the actual amount in controversy to prevent removal, that finding shall be deemed bad faith under paragraph (1).”

Notice.
Time period.

(4) Section 1446 is further amended—

(A) in subsection (d), by striking “(d) Promptly” and inserting “(d) NOTICE TO ADVERSE PARTIES AND STATE COURT.—Promptly”;

(B) by striking “thirty days” each place it appears and inserting “30 days”;

(C) by striking subsection (e); and

(D) in subsection (f), by striking “(f) With respect” and inserting “(e) COUNTERCLAIM IN 337 PROCEEDING.—With respect”.

(c) PROCEDURE FOR REMOVAL OF CRIMINAL ACTIONS.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1455. Procedure for removal of criminal prosecutions

28 USC 1455.
Notice.

“(a) NOTICE OF REMOVAL.—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

“(b) REQUIREMENTS.—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

Deadline.

“(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

“(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

“(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

Examination.

“(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require. If the

Notification.

United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

“(c) WRIT OF HABEAS CORPUS.—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal’s custody and deliver a copy of the writ to the clerk of such State court.”.

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 89 of title 28, United States Code, is amended—

(A) in the item relating to section 1441, by striking “Actions removable generally” and inserting “Removal of civil actions”;

(B) in the item relating to section 1446, by inserting “of civil actions” after “removal”; and

(C) by adding at the end the following new item:

“1455. Procedure for removal of criminal prosecutions.”.

(2) Section 1453(b) of title 28, United States Code, is amended by striking “1446(b)” and inserting “1446(c)(1)”.

SEC. 104. TECHNICAL AMENDMENT.

Section 1446(g) of title 28, United States Code, is amended by striking “subsections (b) and (c)” and inserting “subsection (b) of this section and paragraph (1) of section 1455(b)”.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall take effect upon the expiration of the 30-day period beginning on the date of the enactment of this Act, and shall apply to any action or prosecution commenced on or after such effective date.

(b) TREATMENT OF CASES REMOVED TO FEDERAL COURT.—For purposes of subsection (a), an action or prosecution commenced in State court and removed to Federal court shall be deemed to commence on the date the action or prosecution was commenced, within the meaning of State law, in State court.

TITLE II—VENUE AND TRANSFER IMPROVEMENTS

SEC. 201. SCOPE AND DEFINITIONS.

(a) IN GENERAL.—Chapter 87 of title 28, United States Code, is amended by inserting before section 1391 the following new section:

“§ 1390. Scope

“(a) VENUE DEFINED.—As used in this chapter, the term ‘venue’ refers to the geographic specification of the proper court or courts for the litigation of a civil action that is within the subject-matter jurisdiction of the district courts in general, and does not refer to any grant or restriction of subject-matter jurisdiction providing for a civil action to be adjudicated only by the district court for a particular district or districts.

28 USC 1332
note.
Time period.
Applicability.

28 USC 1390.

“(b) EXCLUSION OF CERTAIN CASES.—Except as otherwise provided by law, this chapter shall not govern the venue of a civil action in which the district court exercises the jurisdiction conferred by section 1333, except that such civil actions may be transferred between district courts as provided in this chapter.

“(c) CLARIFICATION REGARDING CASES REMOVED FROM STATE COURTS.—This chapter shall not determine the district court to which a civil action pending in a State court may be removed, but shall govern the transfer of an action so removed as between districts and divisions of the United States district courts.”.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 87 of title 28, United States Code, is amended by inserting before the item relating to section 1391 the following new item:

“1390. Scope.”.

SEC. 202. VENUE GENERALLY.

Section 1391 of title 28, United States Code, is amended as follows:

(1) By striking subsections (a) through (d) and inserting the following:

“(a) APPLICABILITY OF SECTION.—Except as otherwise provided by law—

“(1) this section shall govern the venue of all civil actions brought in district courts of the United States; and

“(2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.

“(b) VENUE IN GENERAL.—A civil action may be brought in—

“(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

“(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

“(3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.

“(c) RESIDENCY.—For all venue purposes—

“(1) a natural person, including an alien lawfully admitted for permanent residence in the United States, shall be deemed to reside in the judicial district in which that person is domiciled;

“(2) an entity with the capacity to sue and be sued in its common name under applicable law, whether or not incorporated, shall be deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court’s personal jurisdiction with respect to the civil action in question and, if a plaintiff, only in the judicial district in which it maintains its principal place of business; and

“(3) a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.

“(d) RESIDENCY OF CORPORATIONS IN STATES WITH MULTIPLE DISTRICTS.—For purposes of venue under this chapter, in a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.”

(2) In subsection (e)—

(A) in the first paragraph—

(i) by striking “(1)”, “(2)”, and “(3)” and inserting “(A)”, “(B)”, and “(C)”, respectively; and

(ii) by striking “(e) A civil action” and inserting the following:

“(e) ACTIONS WHERE DEFENDANT IS OFFICER OR EMPLOYEE OF THE UNITED STATES.—

“(1) IN GENERAL.—A civil action”; and

(B) in the second undesignated paragraph by striking “The summons and complaint” and inserting the following:

“(2) SERVICE.—The summons and complaint”.

(3) In subsection (f), by striking “(f) A civil action” and inserting “(f) CIVIL ACTIONS AGAINST A FOREIGN STATE.—A civil action”.

(4) In subsection (g), by striking “(g) A civil action” and inserting “(g) MULTIPARTY, MULTIFORUM LITIGATION.—A civil action”.

SEC. 203. REPEAL OF SECTION 1392.

Section 1392 of title 28, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 87 of such title, are repealed.

SEC. 204. CHANGE OF VENUE.

Section 1404 of title 28, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end the following: “or to any district or division to which all parties have consented”; and

(2) in subsection (d), by striking “As used in this section,” and inserting “Transfers from a district court of the United States to the District Court of Guam, the District Court for the Northern Mariana Islands, or the District Court of the Virgin Islands shall not be permitted under this section. As otherwise used in this section,”.

28 USC 1390
note.

Time period.

Applicability.

SEC. 205. EFFECTIVE DATE.

The amendments made by this title—

(1) shall take effect upon the expiration of the 30-day period beginning on the date of the enactment of this Act; and

(2) shall apply to—

(A) any action that is commenced in a United States district court on or after such effective date; and

(B) any action that is removed from a State court to a United States district court and that had been commenced, within the meaning of State law, on or after such effective date.

Approved December 7, 2011.

LEGISLATIVE HISTORY—H.R. 394 (S. 1636):

HOUSE REPORTS: No. 112-10 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 157 (2011):

Feb. 28, considered and passed House.

Oct. 31, considered and passed Senate, amended.

Nov. 18, House concurred in Senate amendments with an amendment.

Nov. 30, Senate concurred in House amendment.