

105TH CONGRESS
1ST SESSION

S. 1260

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 1997

Mr. GRAMM (for himself, Mr. DODD, Mr. DOMENICI, Mrs. BOXER, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. HAGEL, Mr. REID, Mr. WYDEN, Mr. ALLARD, Ms. MOSELEY-BRAUN, Mrs. MURRAY, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

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 “Securities Litigation
5 Uniform Standards Act of 1997”.

6 **SEC. 2. LIMITATION ON REMEDIES.**

7 (a) AMENDMENTS TO THE SECURITIES ACT OF
8 1933.—

1 “(d) DEFINITIONS.—For purposes of this section the
2 following definitions shall apply:

3 “(1) CLASS ACTION.—The term ‘class action’
4 means any single lawsuit, or any group of lawsuits
5 filed in or pending in the same court involving com-
6 mon questions of law or fact, in which—

7 “(A) damages are sought on behalf of
8 more than 25 persons;

9 “(B) one or more named parties seek to
10 recover damages on a representative basis on
11 behalf of themselves and other unnamed parties
12 similarly situated; or

13 “(C) one or more of the parties seeking to
14 recover damages did not personally authorize
15 the filing of the lawsuit.

16 “(2) COVERED SECURITY.—A security is a ‘cov-
17 ered security’ if it satisfies the standard for a cov-
18 ered security specified in paragraph (1) or (2) of
19 section 18(b) at the time during which it is alleged
20 that the misrepresentation, omission, or manipula-
21 tive or deceptive conduct occurred.”.

22 “(2) CONFORMING AMENDMENTS.—Section
23 22(a) of the Securities Act of 1933 (15 U.S.C.
24 77v(a)) is amended—

1 (A) by striking “and, concurrent with
 2 State and Territorial courts,” and inserting
 3 “and, concurrent with State and Territorial
 4 courts, except as provided in section 16 with re-
 5 spect to class actions,”; and

6 (B) by striking “No case arising under this
 7 title and brought in any State court of com-
 8 petent jurisdiction shall be removed” and in-
 9 serting “Except as provided in section 16(e), no
 10 case arising under this title and brought in any
 11 State court of competent jurisdiction shall be
 12 removed”.

13 (b) AMENDMENTS TO THE SECURITIES EXCHANGE
 14 ACT OF 1934.—Section 28 of the Securities Exchange Act
 15 of 1934 (15 U.S.C. 78bb) is amended—

16 (1) in subsection (a), by striking “The rights
 17 and remedies” and inserting “Except as provided in
 18 subsection (f), the rights and remedies”; and

19 (2) by adding at the end the following new sub-
 20 section:

21 “(f) LIMITATIONS ON REMEDIES.—

22 “(1) CLASS ACTION LIMITATIONS.—No class ac-
 23 tion based upon the statutory or common law of any
 24 State or subdivision thereof may be maintained in

1 any State or Federal court by any private party
2 alleging—

3 “(A) a misrepresentation or omission of a
4 material fact in connection with the purchase or
5 sale of a covered security; or

6 “(B) that the defendant used or employed
7 any manipulative or deceptive device or contriv-
8 ance in connection with the purchase or sale of
9 a covered security.

10 “(2) REMOVAL OF CLASS ACTIONS.—Any class
11 action brought in any State court involving a cov-
12 ered security, as set forth in paragraph (1), shall be
13 removable to the Federal district court for the dis-
14 trict in which the action is pending, and shall be
15 subject to paragraph (1).

16 “(3) DEFINITIONS.—For purposes of this sub-
17 section the following definitions shall apply:

18 “(A) CLASS ACTION.—The term ‘class ac-
19 tion’ means any single lawsuit, or any group of
20 lawsuits filed in or pending in the same court
21 involving common questions of law or fact, in
22 which—

23 “(i) damages are sought on behalf of
24 more than 25 persons;

1 “(ii) one or more named parties seek
2 to recover damages on a representative
3 basis on behalf of themselves and other
4 unnamed parties similarly situated; or

5 “(iii) one or more of the parties seek-
6 ing to recover damages did not personally
7 authorize the filing of the lawsuit.

8 “(B) COVERED SECURITY.—A security is a
9 ‘covered security’ if it satisfies the standard for
10 a covered security specified in paragraph (1) or
11 (2) of section 18(b) of the Securities Act of
12 1933, at the time during which it is alleged
13 that the misrepresentation, omission, or ma-
14 nipulative or deceptive conduct occurred.”.

15 (c) APPLICABILITY.—The amendments made by this
16 section shall not affect or apply to any action commenced
17 before and pending on the date of enactment of this Act.

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