

House Member Introduces Bi-Partisan Immigration Legislation to Enhance, Augment the EB-5 Regional Center Program

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On March 6, 2014, Representative Jared Polis (D-CO), along with Representative Joe Garcia (D-FL), Representative Matt Salmon (R-AZ) and Representative Mark Amodei (R-NV), introduced The American Entrepreneurship and Investment Act of 2014. A copy of the bill and an official draft of the bill have been made available. The legislation would, among the other items listed below, make the Regional Center program permanent and improve the program by addressing key administrative and substantive concerns. Some of the specific proposals in the bill include:

- **Improved definition of Targeted Employment Area (TEA) designations**

- Codifies the current TEA designation authority, which leaves such designations up to the states, which are best equipped to determine local employment needs. This is consistent with USCIS's May 30, 2013 "EB-5 Adjudications Policy (PM-602-0083);
- Lowers the minimum capital investment required from \$1,000,000 to \$500,000; and
- Expands the TEA designation for areas where a military installation was closed and where a State or the Federal government has designated an area as an economic development incentive program.

- **Capital requirements**

- Requires the minimum amount to invest to automatically adjust by the Consumer Price Index (CPI) in 2015 and every five years thereafter.

- **Calculating job creation**

- Reforms the definition of "full-time employment" to include part-time employees who work at least 35 hours per week at any one time. This reform will allow for the proper measurement of jobs that are seasonal or intermittent, such as construction work.

- **Permanent authorization of EB-5 Program**

- Provides for the permanent authorization of the EB-5 program to provide investors and businesses with certainty and predictability and help the program grow.

- **Project preapprovals**

- Increases efficiency in the EB-5 program by requiring the Secretary of Homeland Security to establish a preapproval procedure by which a Regional Center may ask USCIS to preapprove a business plan before attracting investors to the project. The bill also allows the applicant to correct any deficiencies identified by the Secretary prior to a final determination.

- **Deference to Prior Rulings**

- **Strong Fraud and Abuse Deterrence and Securities Compliance in Regional Center Program**

- **EB-5 Petition Processing Times**

- This bill would require the Secretary of Homeland Security to provide an expedited processing option for certain individual investors' petitions.

- **Direct Communications with EB-5 Petitioners**

- **Conditional Permanent Resident Status for Immigrant Investors and Entrepreneurs**

- *Age determinations for children of EB-5 investors:* Protects the child of a principal investor if, between the period of conditional permanent residence and the removal of conditions, the child "ages out," and allows that child to still be considered an immediate family member and eligible to be an EB-5 petitioner;
 - *Allows concurrent filings of EB-5 petitions:* Eliminates the requirement for immediate family members to file separate petitions from the principal investor's petition to remove conditions for lawful permanent residence status. By only requiring approval of the investor's petition to remove conditions for their immediate family members, efficiency and fairness in the program will be enhanced.
 - *Allow for premium processing of EB-5 petitions.*

- **Numerical Corporation**

- Provides that the qualified immediate family of an EB-5 immigrant investor is not subject to the numerical cap for that category.

- **Numerical Limitation on Individual Foreign States**

- Eliminates the per country quotas for all immigrant visas. This reform is of particular importance to alleviate the backlog in the Chinese visa category.

- **Applicability of Foreign Corrupt Practices Regulations**

- **Regulations**

- Requires the Secretary of Homeland Security to promulgate rules pursuant to this bill within a defined period.

- **Consultation with Secretary of Commerce**

- Allows the Secretary of Homeland Security to consult with the Secretary of Commerce to review a Regional Center designation petition or whether a proposed project will create the estimated number of jobs.

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National Law Review, Volume IV, Number 67

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