

Entrepreneurial Businesses creating JOBS (EB-JOBS) Act of 2015

TITLE I. PROMOTING ENTREPRENEURSHIP AND INNOVATION

Sec. 101. Entrepreneurs who Establish Businesses and Create Jobs in the United States.

(a) **Start-Up Business and Job Creation Visas.** Incentivizes economic growth and job creation by creating new green card categories for entrepreneurs who establish new start-up businesses and create jobs for American workers. Provides “conditional” EB-6 green cards to 2 types of entrepreneurs:

1. Venture Capital-Backed Start-Up Entrepreneurs. For entrepreneurs who obtain significant venture capital or seed financing for innovative ideas and products, so that new start-up businesses are formed in the United States, rather than abroad.

Legitimate Investment Required. Requires that the entrepreneur be sponsored by a legitimate and established venture capital company, qualified super angel investor, or qualified employer that has invested at least \$500,000 towards a new commercial enterprise or by a qualified seed accelerator that has invested at least \$100,000.

Required Job Creation or Commercial Activity. Provides a 2-year “conditional” green card; the conditions can be removed after 2 years by showing the establishment of a new commercial enterprise that has:

- created permanent full-time jobs for at least 5 U.S. workers;
- raised at least \$2 million in additional capital investment;
- generated least \$1 million in revenue; or
- created permanent full-time jobs for at least 3 U.S. workers who are each paid at least \$100,000 annually.

2. Self-Sponsored Start-Up Entrepreneurs. For entrepreneurs who have established new businesses and can already demonstrate job creation in the United States.

Required Job Creation. Requires, prior to visa issuance, the creation of a new commercial enterprise that has already created full-time jobs for at least 3 U.S. workers.

Required Job Growth. Provides the entrepreneur with a 2-year “conditional” green card; the conditions can be removed after 2 years if the business can show it has:

- created permanent full-time jobs for a total of at least 10 U.S. workers; or
- created permanent full-time jobs for a total of at least 7 U.S. workers who are each paid at least \$100,000 annually.

Automatically adjusts for inflation the monetary amounts described above.

Prohibits any investment that includes assets acquired, directly or indirectly, by unlawful means.

Defines “permanent full-time employment” as a position that is expected to last for at least 2 years and that requires at least 35 hours of service per week, and allows an employer to satisfy this requirement on a full-time equivalent (FTE) basis.

Defines “United States worker” as a U.S. citizen, lawful permanent resident, refugee or asylee not including the entrepreneur or the entrepreneur’s spouse or children.

Ensures program integrity by establishing criteria regarding “qualified business entities,” “qualified seed accelerators,” “qualified super angel investors,” “qualified venture capital entities,” “venture capital funds,” and “seed investments.”

3. Established Treaty Investors. Provides EB-7 green cards to E-2 treaty investors who have maintained status for 10 years and have created at least 5 jobs for U.S. workers for at least 10 years.

(b) Procedure for Granting Immigrant Status. Conforms the INA with respect to the procedure for providing immigrant visas.

(c) Conditional Permanent Resident Status. Conforms the INA with respect to granting conditional status, the removal of conditions after 2 years, and terminating status if requirements are not met.

(d) Cap Exemption. Exempts EB-6 and EB-7 entrepreneurs from numerical green card limits.

Sec. 102. Immigrant Entrepreneurs and Innovators Present in the United States.

Permits certain immigrant entrepreneurs, innovators, and established treaty investors who are eligible for an immigrant visa to adjust status to permanent residence.

TITLE II. PROMOTING INVESTMENT IN THE AMERICAN ECONOMY

Sec. 201. EB-5 Employment Creation Investor Program.

Improves the current EB-5 Employment Creation Investor Program to attract additional foreign investment and create even more new jobs in the United States.

(a) Permanent Authorization of EB-5 Employment Creation Regional Center Program. Makes the existing EB-5 Regional Center program permanent, providing additional certainty to investors.

Set-Aside for Employment Creation Regional Centers. Sets aside 5,000 of the available 10,000 EB-5 visas for regional center use.

Methodologies. Requires that DHS and Commerce recognize reasonable methodologies for calculating direct and indirect job creation; allows up to 50% of job creation requirements to be satisfied by jobs created outside the regional center area.

Preapproval of New Commercial Enterprises. Requires DHS to establish a preapproval procedure that allows for the adjudication of questions related to a particular investment offering before individual petitions are submitted; provides additional certainty to potential investors by allowing DHS to make final decisions on all issues other than those unique to each individual investor; and eliminates the need for the repeated submission of information common to multiple petitions.

Fee for Regional Center Designation. Authorizes a fee for regional center designation.

Site Visits. Requires DHS to perform random site visits for at least 5 percent of all approved projects each fiscal year and submit annual reports to Congress pertaining to the number and locations of site visits conducted and the number and type of sanctions resulting from such visits.

Enhances EB-5 Program Integrity by:

- requiring submission of annual disclosure reports by regional centers and authorizing sanctions ranging from fines, to suspension, to debarment, to termination of regional center designation for misrepresentations or other program violations;

- restricting regional center participation by persons who were found liable within the last five years of a criminal or civil violation relating to fraud or deceit or persons who are known or reasonably believed to be engaging in or have engaged in various criminal acts, authorizing background checks, and granting to the Secretary of Homeland Security discretionary authority to terminate a regional center;
- restricting persons with substantive authority over a regional center to U.S. citizens and lawful permanent residents and restricting foreign governments from directly or indirectly owning or administering a regional center;
- ensuring regional center compliance with securities laws by requiring oversight of securities-related activities and requiring termination or suspension of regional center designations for bad actions;
- authorizing the denial or revocation of any Regional Center designation where the Secretary believes that participation would be contrary to the national interests, poses a threat to national security, or where the regional center is engaged or seeks to engage in fraud, deceit, misrepresentation, or criminal misuse; and
- permitting the Secretary of Homeland Security to consult with the Secretary of Commerce in evaluating regional center designations and proposed business plans.

(b) Targeted Employment Areas. Reforms the “Targeted Employment Area” (TEA) concept to better incentivize investment in rural areas, areas with high unemployment, areas with large declines in population, certain designated economic development areas, and areas containing closed military bases. Sets aside a minimum amount of visas for 1) areas with high unemployment, 2) rural areas, and 3) areas with large declines in population, certain designated economic development areas, and areas containing closed military bases. Unused visas at the end of each fiscal year will remain available for use within the category to which they were assigned.

Redefines an area with high unemployment to account for commuting patterns as determined by the Federal Government.

Provides that TEA determinations shall remain in effect for at least 5 years, giving additional certainty to investors.

(c) Calculating Job Creation. Defines the term “permanent full-time employment” to refer to a position that is expected to last for at least 2 years and that requires at least 35 hours of service per week.

Allows an employer the use of FTE calculations to capture both full-time and part-time jobs.

(d) Capital. Defines the term “capital” to prohibit any investment that includes assets acquired, directly or indirectly, by unlawful means.

Increases the minimum investment amount from \$1 million to \$2 million and automatically pegs subsequent adjustments to the Consumer Price Index.

Locks in the minimum investment amount for petitions that are filed before an increase takes effect or that are filed in connection with a preapproved investment.

(e) Type of Investment. Clarifies that a commercial enterprise may include any entity formed for the purpose of doing for-profit business and that the investment must be expected to last for not less than 2 years.

(f) Extension. Provides investors with 2 additional years to meet program requirements when unexpected delays occur. An investor must show that delays were based on circumstances outside of his or her control and that such circumstances will be resolved within the additional time period.

(g) Study. Requires DHS and Commerce to study the EB-5 program, including job creation methodologies, and to issue a report to Congress.

(h) Biennial Report. Requires DHS to issue biennial reports to Congress measuring the economic impact of the EB-5 program.

Sec. 202. Concurrent Filing; Adjustment of Status.

Amends the INA to allow for concurrent filing for adjustment of status for persons applying for EB-5, EB-6, and EB-7 visas.

Sec. 203. Fees; Premium Processing.

Establishes an INA account for fees collected through the EB-5 and EB-6 programs, requiring that such fees be used to administer and operate those programs; establishes a “premium processing” fee of \$5,000 for expedited processing of EB-5 and EB-6 petitions within 60 days. Such fee may be adjusted for inflation according to the Consumer Price Index.

Sec. 204. Contingent Increase in Visa Number Availability.

Amends the INA to make 10,000 additional EB-5 visas available each year in which the annual cap is hit unless enactment of a joint resolution finding that an increase in visa numbers is unnecessary.

Provides for expedited consideration of such a joint resolution.

TITLE III. PERMANENT AUTHORIZATION OF CONRAD STATE 30 J-1 VISA WAIVER PROGRAM

Sec. 301. Permanent Reauthorization of Conrad State 30 J-1 Visa Waiver Program.

Permanently reauthorizes the Conrad State 30 J-1 program to provide more certainty to medically underserved communities that rely upon qualified doctors provided by this program.

TITLE IV. REAUTHORIZATION OF THE E-VERIFY PROGRAM AND SPECIAL IMMIGRANT NONMINISTER RELIGIOUS WORKER PROGRAM

Sec. 401. Reauthorization of E-Verify.

Reauthorizes the E-Verify program to September 30, 2020

Sec. 402. Reauthorization of the Special Immigrant Nonminister Religious Worker Program

Reauthorizes the Special Immigration Nonminister Religious Worker program to September 30, 2020.