

Border, Economic Opportunity and Immigration Modernization Act of 2013

(This will become law only if it is passed by Congress)

(PART II)

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This is continuation of series of articles about the Immigration Reform Bill introduced in the Congress. In the first part we discussed about the provisions relating to legalization of individuals in unlawful status, who resided in the US prior to December 31, 2011.

Legal Immigration

- The bill eliminates the backlog for family and employment-based immigrants (see below discussion of merit-based system).
- Currently, there are four preference categories based on family relationships and 480,000 visas are allocated to family. Under the new system there will be two family preference categories and they will cover unmarried adult children; married adult children who file before age 31, and unmarried adult children of lawful permanent residents. We are expanding the current V visa to allow individuals with an approved family petition to live in the U.S. and allow certain other family members to visit the U.S. for up to 60 days per year.
- The bill repeals the availability of immigrant visas for siblings of U.S. citizens once 18 months have elapsed since the date of enactment.
- The bill amends the definition of “immediate relative” to include a child or spouse of an alien admitted for lawful permanent residence.
- The bill amends the existing category for married sons and daughters of citizens of the United States to include only sons and daughters who are under 31 years of age.
- The bill repeals the Diversity Visa Program. Aliens who were or are selected for diversity immigrant visas for fiscal years 2013 or 2014 will be eligible to receive them.
- On the employment green card categories, the bill exempts the following categories from the annual numerical limits on employment-based immigrants: derivative beneficiaries of employment-based immigrants; aliens of extraordinary ability in the sciences, arts, education, business or athletics; outstanding professors and researchers; multinational executives and managers; doctoral degree holders in any field; and certain physicians.
- The bill then allocates 40 percent of the worldwide level of employment-based visas to :
1) members of the professions holding advanced degrees or their equivalent whose services are sought in the sciences, arts, professions, or business by an employer in the United States

(including certain aliens with foreign medical degrees) and 2) aliens who have earned a master's degree or higher in a field of science, technology, engineering or mathematics from an accredited U.S. institution of higher education and have an offer of employment in a related field and the qualifying degree was earned in the five years immediately before the petition was filed.

- The bill increases the percentage of employment visas for skilled workers, professionals, and other professionals to 40 percent, maintains the percentage of employment visas for certain special immigrants to 10 percent and maintains visas for those who foster employment creation to 10 percent.
- The bill creates a startup visa for foreign entrepreneurs who seek to migrate to the United States to startup their own companies.
- **Merit Based Visa:** The merit based visa, created in the fifth year after enactment, awards points to individuals based on their education, employment, length of residence in the US and other considerations. Those individuals with the most points earn the visas. Those who access the merit based pathway to earn their visa are expected to be talented individuals, individuals in our worker programs and individuals with family here. 120,000 visas will be available per year based on merit. The number would increase by 5% per year if demand exceeds supply in any year where unemployment is under 8.5%. There will be a maximum cap of 250,000 visas.
- Under one component of this merit based system the Secretary will allocate merit-based immigrant visas beginning on October 1, 2014 for employment-based visas that have been pending for three years, family-based petitions that were filed prior to enactment and have been pending for five years, long-term alien workers and other merit based immigrant workers.
- Long –term alien workers and other merit based immigrant workers includes those who have been lawfully present in the United States for not less than ten years and who are not admitted as a W visa under section 101(a)(15)(W) of the Act.
- Between fiscal years 2015 and 2021, the Secretary shall allocate a seventh of the total number of those with employment based visas that have been pending on the date of enactment. Petitions for spouses and children of permanent residents who are accorded status under the INA are automatically converted to petitions to accord status as immediate relatives. Between fiscal years 2015 and 2021, the Secretary shall follow a specific formula to allocate visas to those with family based petitions pending on the date of enactment and subject to some restrictions visas should be authorized in the order petitions were filed. In fiscal year 2022, the Secretary of State shall allocate visas to half the number of those that filed family based petitions after the date of enactment and had not had a visa issued by October 2021. In fiscal year 2023, the visas should be allocated to the other half of those that filed family based petitions after the date of enactment and who had not had a visa issued by October 2021. Visas allocated for these family based petitions will be issued based on the order in which petitions were filed.

We will continue other parts of the bill relating to Temporary Visas, H1B Reform under which H1B cap of 65,000 under regular program and 20,000 for advanced Degree holders, will be increased, visas for agricultural workers, path to citizenship for Dreamers, (Those who qualify under the Dream Act provisions), changes in the existing law relating to aliens who have been previously deported or those who are presently in deportation proceedings, Adjustment of status for certain individuals who would be eligible for the same, F1 students, Mandatory, E Verify program, enforcement of laws to deter illegal immigrants from crossing the border and those who overstay and many other changes in the bill, comprising of 844 pages, which are presently being reviewed by us.

The bill is presently going through hearings, before the Senate Judiciary Committee. It may take several months, before the process of hearings in the Senate and the Congress is completed.

For more information, please feel free to contact the Immigration and Nationality Lawyers at the NPZ Law Group at 201-670-0006 or by e-mailing us at info@visaserve.com.

To Be Continued...