Immigration resource news magazine for United states of america

Immigration Magazine

PROPOSED IMMIGRATION REFORM SUMMARY: “BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT”

Tiyalaw · Wednesday, April 17th, 2013

PROPOSED IMMIGRATION REFORM SUMMARY



“BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT”

On April 17, 2013, the U.S. Senate introduced proposed immigrant reform in an Immigration Bill: “**Border Security, Economic Opportunity, and Immigration Modernization Act”. The proposed law included, but are not limited, to the following:**

REGISTERED PROVISION IMMIGRANT (RPI)

A. Registered Provision Immigrant (RPI) status **for undocumented persons in U.S. prior to December 31, 2011:**

1. Eligibility*:*

(a) Continuous physical presence since December 31, 2011- certain exceptions apply such as brief trips after December 31, 2011.

(b) Derivative spouses and unmarried children also eligible if physically present when principal granted and present on December 30, 2012.

(c) Can apply for RPI status from outside U.S. if physically present in U.S. prior to December 31, 2011, were deported for non-criminal reason, and have USC or LPR spouse or child.

(d) Current removal proceedings or reinstatement does not bar eligibility.

(e) Public charge, labor certification and documentation requirements grounds of inadmissibility do not apply.

(f) Unlawful entry, stowaways, misrepresentation, and other grounds of inadmissibility do not apply unless inadmissible conduct after statute enacted.

(g) Failure to attend removal proceeding or prior removal grounds of inadmissibility does not apply unless after date of registration.

2. Ineligibility*:*

(a) If convicted of three misdemeanors or one felony, aggravated felony, voted unlawfully, national security, or health-related grounds — minor traffic offenses excepted AND conviction does not include an expungement.

(b) If green card status, refugee, valid non-immigrant status – except TPS status.

(c) Subject to grounds of inadmissibility not specifically exempted, but waivers available non-criminal, non-security related grounds of inadmissibility based on humanitarian concerns, family unity, public interest

3. Advantages*:*

(a) RPI status allows for protection from deportation, detention, work authorization, travel.

(b) No accrual of unlawful presence.

(c) Six years of RPI status and extension

4. Application Process:

(a) Application period will be for one year after final regulation (possible 18 month extension).

(b) Pay filing fee, $500 penalty, and accessed taxes.

(c) Applications may be filed by family unit.

(d) Filing fee required for those 16 years old and over

(e) Biometrics and biographic will be conducted.

(f) Interview

5. Extension:

(a) RPI status renewable for an additional 6 year period upon payment of filing fee, $500 penalty, remains eligible, and maintenance of regular employment.

6. DACA Recipients' Provisions:

(a) DHS may grant RPI status to DACA recipient if national security clearances and law enforcement clearances completed and no conduct since DACA approval that would make person ineligible for RPI.

B. Can apply to adjust to Green Card status after 10 years:

Some of the conditions included, but are not limited to:

1. Clearing of current family-based backlog and other matters.
2. Demonstrate continuous residence, payment of taxes, regular employment in U.S or poverty guidelines income, knowledge of English and civics, remains eligible for RPI (no denial or revocation).
3. Payment of filing fee and $1,000 penalty.
4. **After 3 years, may apply for Naturalization after Green Card status.**

DREAM ACT & GREEN CARD

DREAM ACT & applying for Green Card status for certain noncitizens who entered the U.S. as children:

1. Eligibility:

(a) RPI for five years.

(b) Younger than age 16 on date of initial entry to U.S.

(c) Has high school diploma or GED in U.S.

(d) Has higher education degree or at least 2 years in good standing toward higher education degree; or has served in uniformed services for at least 4 years and, if discharged, received an honorable discharge. An exemption from this requirement is available based on hardship.

(e) Listing each secondary school attended in U.S.

(f) Has knowledge of civics and English; exception for physical or developmental disability.

(g) Time in RPI status can be considered as Green Card status for naturalization eligibility.

AGRICULTURAL WORKERS

1. Eligibility:

(a) Farmworkers who have been working in the U.S. for 100 “work days” in the last two years can qualify for Agricultural Card Program.

(b) They can apply for Green Card status after working in agricultural employment for either three years (at least 150 days/year) or five years (at least 100 days/year), show payment of taxes, no serious criminal conviction, and $400 fine.

(c) Spouses and children also eligible as dependents.

(d) This streamlined agricultural guest worker program to replace current H-2A program and ensure adequate supply of farm laborers as well worker protections.

(e) W-2 visas will be for contract laborers; and W-3 visas will be for portable, at-will employment.

NONIMMIGRANT WORK VISA

1. Proposing an increase in annual cap on H-1B visas from 65,000 to 110,000 with gradual rise to 180,000 based on a High Skilled Jobs Demand Index
2. Protections for U.S. domestic workers by requiring employers to pay higher wages and undergo recruitment of U.S. workers.
3. Allocating more visas for those with degrees in science, technology, engineering, or mathematics (STEM), which could lead to Green Card status.
4. Providing a new W visa category for lower-skilled workers and their dependents.

Initial W visa will be for 3 years, extension available if not unemployed for more than 60 consecutive days.

Eligible employers must be registered and comply with worker protections.

There will be annual caps of W visas for first four years, beginning April 1, 2015 (20,000 for first year; 35,000 second year; 55,000 third year; 75,000 fourth year).

There will be a newly established Bureau of Immigration and Labor Market Research that will determine annual cap of W visas, declare shortage occupations, influence recruitment methods.

EMPLOYMENT VERIFICATION

1. Mandatory employment verification system (E-Verify) will be required. All employers must comply within five-years of issuance of implementing regulations; time frame varies depending on number of employees.
2. Non-citizens must show biometric work authorization card at time of hiring and be

photo-matched with system.
3. U.S. citizens will undergo photo-matching of passports or drivers licenses.
4. Social security numbers will be “locked” into E-Verify system.

NATURALIZATION

1. English and civics requirements will not apply to: (a) those with mental or physical impairment ; or (b) 65 or older, been a Green Card holder for at least 5 years (new)
2. Civics requirement can be waived for anyone who’s at least 60 and has been an LPR for 10 years (new).
3. English not necessary if: (a) At least 50, and Green Card status for 20 years; (b) At least 55, Green Card status for 15 years; (c) At least 60, Green Card status for 10 years (new).

This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship.

April 17, 2013: By Aik Wan Kok Fillali, Lawyer USA Immigration Services, at Tiya; Tel: 703-772-8224 & koka at tiyalaw dot com; Direct dial from abroad: 001-703-772-8224; https://www.tiyaimmigration.com ; http://tiyalaw.blogspot.com ; http://immigrationresource.net

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This entry was posted on Wednesday, April 17th, 2013 at 4:01 pm and is filed under Citizenship, DOL PERM Case Status & Processing Time, Green Card, Green Card – Others, Green Card via Family, Green Card via Work, Immigration Forms, Immigration News, Other Visas, Others, USCIS Case Status, USCIS Processing Time, Visas, Waivers, Work Visas
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