



Congress Passes the EB-5 Reform and Integrity Act of 2022, Renewing a Key Pathway for Foreign Investors to Obtain Visas (U.S. Insight)

Late Thursday, the Senate passed a \$1.50 trillion spending bill that will fund the federal government through September 30, 2022. Included in the bill is the “EB-5 Reform and Integrity Act of 2022”, which renews a 1990 program that incentivizes foreign investment in the U.S. with the promise of providing green cards for immigrant investors.

The program will be renewed after much uncertainty due to recent criticism over its perceived ineffectiveness and claims of fraud. The bill addresses some of these underlying issues as well as issues applicants are facing stemming from the uncertain future of the program.

Among other things, the reauthorization includes new measures intended to prevent fraud. For example, projects receiving funding from EB-5 investors will need to comply with additional reporting requirements, and the Department of Homeland Security’s oversight role has been bolstered to help ensure that incoming investments are ethically sourced.

Regional centers, which are intended to promote growth in economically challenged and rural areas by pooling investors for EB-5 projects, have long been criticized for allowing commercial real estate developers to direct funds towards affluent areas through gerrymandering. The bill includes a number of reforms that are targeted at such regional centers, including a requirement for an audit by USCIS at least once every five (5) years and a prohibition on involvement by certain criminals and persons who have been sanctioned by the government.

Further, the bill earmarks available EB-5 visas for specific categories of investments: 20% are reserved for investments in rural areas; 10% are reserved for investments in high-unemployment areas; and 2% are reserved for investments in infrastructure projects.

Immigrant investors can expect higher investment minimums as a result of the renewal, including a new minimum investment of \$800,000 for areas of high unemployment and rural areas (up from the current minimum of \$500,000), and a minimum investment of \$1,050,000 for non-targeted areas.

Regional center applicants can also expect some welcome changes. The renewal extends the EB-5 program to September 30, 2027. Additionally, if the program ever expires, as it did on June 30, 2021, new grandfathering laws will ensure that EB-5 petitions will continue to be processed by USCIS if they are filed on or before September 30, 2026. These changes address major concerns voiced by immigrant investors whose futures in the U.S. were thrown into question when the program faced yearly renewal, which has recently triggered multiple lawsuits.

About Curtis

Curtis offers comprehensive EB-5 Program legal services to investors, job-creating entities, new commercial enterprises, and regional centers under the EB-5 Program. These services vary from advising investors, filing petitions, providing compliance advice, challenging USCIS Form I-526 and Form I-829 denials in federal court, and handling EB-5 commercial disputes, to advising on the structuring, formation, and administration of pooled investment vehicles for EB-5 investors consistent with U.S. securities laws.

Curtis attorneys have also been recognized for their EB-5 Program expertise. In September 2021, Curtis litigation partner Jason Wright was featured in The Investment Migration Report's 10th Episode, "[A Conversation with an EB-5 Government Litigator](#)". In March 2022, the U.S. Bankruptcy Court for the District of Delaware also qualified Jason as an expert witness in the EB-5 Program pursuant to a complex EB-5 related restructuring in a bankruptcy proceeding involving 150 EB-5 investors. The Court commended Curtis' advice and contributions.

Curtis, Mallet-Prevost, Colt & Mosle LLP is a leading international law firm. Headquartered in New York, Curtis has 19 offices in the United States, Latin America, Europe, the Middle East and Asia. Curtis represents a wide range of clients, including multinational corporations and financial institutions, governments and state-owned companies, money managers, sovereign wealth funds, family-owned businesses, individuals and entrepreneurs.

For more information about Curtis, please visit www.curtis.com.

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