To permit an alien to remain eligible for a diversity visa beyond the fiscal year in which the alien applied for the visa, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2005

Mr. CHAMBLISS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To permit an alien to remain eligible for a diversity visa beyond the fiscal year in which the alien applied for the visa, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Diversity Visa Fairness Act of 2005”.

SEC. 2. DIVERSITY LOTTERY VISAS.

(a) AVAILABILITY BEYOND FISCAL YEAR.—Section 204(a)(1)(I)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(I)(ii)) is amended by striking subclause (II) and inserting the following:
“(II) An alien who qualifies, through random selection, for a visa under section 203(c) or adjustment of status under section 245(a) shall remain eligible to receive such visa or adjustment of status beyond the end of the specific fiscal year for which the alien was selected if the alien—

“(aa) properly applied for such visa or adjustment of status during the fiscal year for which alien was selected; and

“(bb) was notified by the Secretary of State, through the publication of the Visa Bulletin, that the application was authorized.”.

(b) Application to Prior Fiscal Years.—

(1) In general.—Notwithstanding any other provision of law, a visa shall be available under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) if—

(A) such alien was eligible for and properly applied for an adjustment of status under sec-
tion 245 of such Act (8 U.S.C. 1255) during a fiscal year between 1998 and 2004;

(B) the application submitted by such alien was denied because personnel of the Department of Homeland Security or the Immigration and Naturalization Service failed to adjudicate such application during the fiscal year in which such application was filed;

(C) such alien moves to reopen such adjustment of status applications pursuant to procedures or instructions provided by the Secretary of Homeland Security or the Secretary of State; and

(D) such alien has continuously resided in the United States since the date of submitting such application.

(2) RELATIONSHIP TO WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—A visa made available under paragraph (1) may not be counted toward the numerical maximum for the worldwide level of set out in section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)).

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.