

112TH CONGRESS
2D SESSION

H. R. 6210

To amend the Immigration and Nationality Act to provide for additional immigrant visas for certain entrepreneurs and job creators, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2012

Mr. CONYERS (for himself and Mr. CHAFFETZ) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide for additional immigrant visas for certain entrepreneurs and job creators, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American Investment
5 and Job Creation Act of 2012”.

6 **SEC. 2. IMMIGRANT VISAS FOR ENTREPRENEURS AND JOB**
7 **CREATORS.**

8 (a) ALIENS WHO ARE MEMBERS OF THE PROFES-
9 SIONS HOLDING ADVANCED DEGREES.—Section

1 203(b)(2)(B) of the Immigration and Nationality Act (8
2 U.S.C. 1153(b)(2)(B)) is amended—

3 (1) by striking “(B) (i) Subject to clause (ii)”
4 and inserting the following: “(B) NATIONAL INTER-
5 EST WAIVERS.—”

6 “(i) IN GENERAL.—Subject to clauses
7 (ii) and (iii)”;
8 (2) in clause (ii)—

9 (A) by striking “(ii) (I) The Attorney Gen-
10 eral” and inserting the following: “(ii) PHYSI-
11 CIANS WORKING IN SHORTAGE AREAS OR VET-
12 ERANS FACILITIES.—”

13 “(I) IN GENERAL.—The Sec-
14 retary of Homeland Security”;

15 (B) in subclause (II), by striking “(II) No
16 permanent resident visa” and inserting the fol-
17 lowing: “(II) PROHIBITION.—No permanent
18 resident visa”;

19 (C) in subclause (III), by striking “(III)
20 Nothing in this subparagraph” and inserting
21 the following: “(III) STATUTORY CONSTRUC-
22 TION.—Nothing in this subparagraph”; and

23 (D) in subclause (IV), by striking “(IV)
24 The requirements of” and inserting the fol-

1 lowing: “(IV) EFFECTIVE DATE.—The require-
2 ments of”; and

3 (3) by inserting after clause (ii) the following:

4 “(iii) ENTREPRENEURS AND JOB CRE-
5 ATORS.—The Secretary of Homeland Secu-
6 rity shall grant a national interest waiver
7 pursuant to clause (i) on behalf of any
8 alien entrepreneur with respect to whom a
9 petition for preference classification has
10 been filed under subparagraph (A) if—

11 “(I) the alien has engaged in a
12 new commercial enterprise (including
13 a limited partnership or similar enti-
14 ty) in the United States; and

15 “(II) such enterprise has bene-
16 fitted the United States economy and
17 satisfied the employment creation re-
18 quirements described in section
19 204(m).”.

20 (b) SKILLED WORKERS, PROFESSIONALS, AND
21 OTHER WORKERS.—Section 203(b)(3) of the Immigration
22 and Nationality Act (8 U.S.C. 1153(b)(3)) is amended by
23 inserting after subparagraph (C) the following:

24 “(D) NATIONAL INTEREST WAIVER FOR
25 ENTREPRENEURS AND JOB CREATORS.—The

Secretary of Homeland Security shall waive application of subparagraph (C) on behalf of any alien entrepreneur with respect to whom a petition for preference classification has been filed under subparagraph (A) if—

“(i) the alien has engaged in a new commercial enterprise (including a limited partnership or similar entity) in the United States; and

“(ii) such enterprise has benefitted the United States economy and satisfied the employment creation requirements described in section 204(m).”.

(c) REQUIREMENTS.—

(1) IN GENERAL.—Section 204 of the Immigration and Nationality Act is amended by adding at the end the following:

“(m) ENTREPRENEURS AND JOB CREATORS.—

“(1) JOB CREATION REQUIREMENTS.—For purposes of sections 203(b)(2)(B) and 203(b)(3)(D), a new commercial enterprise shall be deemed to have benefitted the United States economy and satisfied the employment creation requirements of this subsection if the enterprise—

1 “(A) has, during the period beginning 4
2 years prior to the date that a petition for pref-
3 erence classification with respect to the alien
4 has been filed under subparagraph (A), created
5 direct, full-time employment—

6 “(i) for not less than 5 United States
7 workers; or

8 “(ii) in the case of an enterprise in a
9 Distressed Area Development Zone, for not
10 less than 3 United States workers; and

11 “(B) the enterprise has received enough in-
12 vestment or revenue during the period described
13 in subparagraph (A) to support the employment
14 creation requirements described in such sub-
15 paragraph.

16 “(2) DEFINITIONS.—For purposes of sections
17 203(b)(2)(B) and 203(b)(3)(D):

18 “(A) FULL-TIME EMPLOYMENT.—The
19 term ‘full-time employment’ means employment
20 in a position that requires at least 35 hours of
21 service per week at any time, regardless of who
22 fills the position. Such employment may be sat-
23 isfied on a full-time equivalent basis by calcu-
24 lating the number of full-time employees that
25 could have been employed if the reported num-

1 ber of hours worked by part-time employees had
2 been worked by full-time employees. Full-time
3 equivalent employment shall be calculated by di-
4 viding the part-time hours paid by the standard
5 number of hours for full-time employees.

6 “(B) INVESTMENT OR REVENUE.—The
7 term ‘investment or revenue’ does not include
8 any assets acquired, directly or indirectly, by
9 unlawful means. The term ‘investment’ includes
10 assets provided by the alien entrepreneur and
11 may include assets, including venture capital in-
12 vestments, provided pursuant to an investment
13 agreement with investors who are United States
14 citizens or aliens lawfully admitted to the
15 United States for permanent residence.

16 “(C) UNITED STATES WORKER.—The term
17 ‘United States worker’ means an employee
18 (other than the immigrant or the immigrant’s
19 spouse, sons, or daughters) who—

20 “(i) is a citizen or national of the
21 United States; or

22 “(ii) is an alien who is lawfully admit-
23 ted for permanent residence, is admitted as
24 a refugee under section 207, is granted
25 asylum under section 208, or is an immi-

1 grant otherwise authorized to be employed
2 in the United States.

3 “(3) PRIORITY DATE.—The priority date for
4 any alien who is adjusting status from any non-
5 immigrant classification described in section
6 101(a)(15) and who receives a national interest
7 waiver under section 203(b)(2)(B) or 203(b)(3)(D)
8 shall be the date of the first petition or application
9 for status under section 101(a)(15) filed with re-
10 spect to that alien.”.

11 (2) DISTRESSED AREA DEVELOPMENT
12 ZONES.—Section 101(a) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1101(a)) is amended by add-
14 ing at the end the following:

15 “(53) The term ‘Distressed Area Development
16 Zone’ means—

17 “(A) a low-income geographic area, as
18 such term is defined in section 351 of the Small
19 Business Investment Act of 1958 (15 U.S.C.
20 689); or

21 “(B) a city or county in the United
22 States—

23 “(i) that has experienced high unem-
24 ployment (of not less than 150 percent of
25 the national average, as determined by the

1 Secretary of Labor) within the preceding
2 24 months; or

3 “(ii) has had a 20 percent or more de-
4 crease in population since 1970.”.

5 (d) CONFORMING AMENDMENTS.—

6 (1) Section 203 of the Immigration and Nation-
7 ality Act is amended by striking “Attorney General”
8 each place such term appears and inserting “Sec-
9 retary of Homeland Security”.

10 (2) Section 204(a)(1)(E) of the Immigration
11 and Nationality Act is amended by inserting “or
12 under paragraph (2) or (3) of section 203(b) if such
13 alien is seeking a national interest waiver under sec-
14 tion 203(b)(2)(B) or 203(b)(3)(D),” after
15 “203(b)(1)(A)”.

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