

EMILY CURRAY STERN & CURRAY LLC

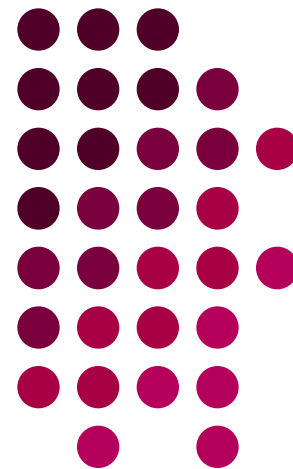
650 S. Cherry Street, Suite 900

Denver, CO 80246

303.407.4100

emily.curray@sterncurray.com

www.sterncurray.com



Stern & Curray LLC
GLOBAL IMMIGRATION LAW

IMMIGRATION REFORM

WHERE ARE WE?

15,000 FOOT VIEW



Stern & Curray LLC
GLOBAL IMMIGRATION LAW

SENATE BILL 744 (S 744)



- Border Security, Economic Opportunity, and Immigration Modernization Act
- Gang of Eight: Bennet, Durbin, Flake, Graham, McCain, Menendez, Rubio, Schumer
- Passed senate June 27, 2013

HOUSE BILL 15 (HR 15)



- Border Security, Economic Opportunity, and Immigration Modernization Act
- Proposed by House Democrats October 2, 2013
- Based on earlier version of S 744, not final version
- Differences mostly in border security

COMPREHENSIVE



- Border Security (Title I)
- Immigrant Visas (Title II)
- Interior Enforcement (Title III)
- Nonimmigrant Visa Programs (Title IV)
- Jobs for Youth (Title V)



TODAY'S FOCUS



- Temporary visas for work
 - Faculty and other professionals
 - Students
- Changes in immigrant provisions



CHANGES TO H-1B PROGRAM

- Increase in cap number for H-1Bs
- 115,000 to 180,000
- Fluctuates based on market conditions as measured by time cap is reached and comparing to prior year

CHANGES TO H-1B PROGRAM



- Master's cap
 - Increased to 25,000
 - Limited to STEM degrees
- STEM – programs in Dept of Education Classification for computer and information sciences and support, engineering, mathematics and statistics, and physical sciences

CHANGES TO H-1B PROGRAM



- Employers must now recruit for US workers before hiring H-1B worker
- Must make good faith recruitment efforts to recruit US workers
- Required to post ad for 30 days on DOL website before filing LCA
- H-1B dependent ER must offer job to US worker who applies and is at least equally qualified for H-1B position

CHANGES TO H-1B PROGRAM



- Filing changes
- Increased scrutiny of LCA
- Increased time frame for LCA certification to 14 days
- Can file petition with USCIS w/o certified LCA but approval requires certified LCA

CHANGES TO H-1B PROGRAM



- Fees
- Training fee increases
 - large ER \$2500
 - < 25 employees \$1250
- Higher education still exempt
- ER to pay new \$500 fee if outplaces H-1B worker

CHANGES TO H-1B PROGRAM



- Increases wages for H-1B workers – Level 2 wage becomes minimum wage
 - 3 levels for private ER
 - 4 levels for higher ed
- Provides a 60-day lawful status period for an H-1B worker whose employment is terminated

CHANGES TO H-1B PROGRAM



- Allows visa revalidation within US
 - Also for certain other nonimmigrant visa categories
- Allows waiver of consular interviews for low-risk applicants
- Authorizes an H-1B spouse to work if s/he is from country that permits reciprocal employment





CHANGES TO H-1B PROGRAM

- H-1B dependent ER
 - Increased restrictions
- Exemptions from being dependent ER
 - Higher education
 - Non profit research organizations
 - Health care ER petitions for doctors, nurses and physical therapists

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- New E Visa Categories
 - E-4: Specialty occupation for those from countries with US free trade agreement
 - E-5: Specialty occupation workers from South Korea
 - E-6: Qualifying workers from certain sub-Saharan African or Caribbean Basin countries.

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- F-1 now dual-intent
 - Can still get visa if beneficiary of immigrant petition
- H-2B several modifications

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- Outplacement of L-1 workers
 - Prohibited for L-1 dependent ER
 - allowed for non L-1 dependent ER - with fee of \$500
- Spouse can work if he or she is the national of a country that permits reciprocal employment.
- L-1 petitions subject to training fee



CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- O-1 get portability - move to new ER upon filing petition
- Changes to V Visa make it easier for spouses and children of lawful permanent residents to come to the United States to wait for completion of the immigrant visa process

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- New W visa for temporary workers
- Two types
 - less-skilled, non-seasonal, nonagricultural workers, such as workers in janitorial and hospitality industries
 - agricultural workers

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- X visa for entrepreneurs
 - Businesses have attracted at least \$100,000 in investment, or have created no fewer than three jobs during a two-year period prior to the application
 - and generated \$250,000 in annual revenue
 - temporary nonimmigrant visa that is granted for 3 years, can extend 1 year twice

CHANGES TO OTHER NON-IMMIGRANT PROGRAMS



- Y visa - New retiree or snowbird visa
 - Over 55
 - Meet certain residential investment requirements in US
 - Not working in US and have health insurance
- Special provision for retired Canadians (non-Y but similar) – can stay 240 days if have residences in Canada and US





NEW IMMIGRANT PROGRAMS

- Registered Provisional Immigrant (RPI) program for undocumented
 - Long pathway to permanent residence
- Incorporates DREAM Act
 - Shorter pathway to permanent residence for DREAMERS



NEW IMMIGRANT PROGRAMS

- Merit based point system for immigrants
 - accumulate points based on skills, education employment history, entrepreneurship, age, need, language, USC family members
- Two tiers – one for highly skilled, one for lesser skilled
 - both favor young workers with strong English skills from countries with fewer immigrants



NEW IMMIGRANT PROGRAMS



- EB-6 immigrant investor visa
 - Entrepreneurs who have a significant ownership in a U.S. business
 - Had a significant role in the start-up of the business
 - Business must have
 - created 5 jobs & received \$500,000 in venture capital or investment
 - or created 5 jobs and generated \$750,000 in annual revenues in the prior two years

CHANGES TO IMMIGRANT PROGRAMS



- Employment Based Permanent Residence Changes
- Eliminates country-specific limits on employment-based immigrant visas

CHANGES TO IMMIGRANT PROGRAMS



- Exempts some immigrants from quotas
 - Spouses and minor children of employment based immigrants
 - STEM graduates who complete advanced degree in U.S.
 - Have job offer in U.S.
 - Also exempt from labor certification

CHANGES TO IMMIGRANT PROGRAMS



- Exempts some immigrants from quotas
 - Extraordinary ability in the sciences, arts, education, business, or athletics
 - Outstanding professors and researchers
 - Multinational executives and managers
 - Those with a doctorate degree
 - Physicians who have completed foreign residency requirements

CHANGES TO IMMIGRANT PROGRAMS



- Makes Conrad 30 J Waiver Program Permanent
 - NIW for physicians working in underserved areas
 - Exempted from quota because fulfill 212(e)
- Makes EB-5 Investment Program Permanent
 - Including regional center program

CHANGES TO IMMIGRANT PROGRAMS



- Family Based Permanent Residence Changes
- Eliminates quota for spouses and children of permanent residents
- Eliminates immigrant category for siblings of USC
- Limits immigrant category for married sons and daughters of USC to those under 30



OTHER PROVISIONS

- E-verify will be mandatory for all employers within 5 years
- Border security primary goal
 - Certain triggers must be met before other parts of bill will be implemented
 - Provisions for undocumented are affected
 - Huge increase in funding for border security and in number of border patrol agents (almost 20,000 more)



QUESTIONS?