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112TH CONGRESS
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H. R. 1114

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2011

Mrs. MALONEY introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

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 "StartUp Visa Act of 2011".

SEC. 2. STARTUP VISAS.

(a) IN GENERAL.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 203(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) SPONSORED ENTREPRENEURS.—

"(A) IN GENERAL.—StartUp visas shall be made available, from the number of visas allocated under paragraph (5), to qualified immigrant entrepreneurs—

"(i)(I) who have proven that a qualified venture capitalist, a qualified super angel investor, or a qualified government entity, as determined by the Secretary of Homeland Security, has invested not less than $100,000 on behalf of each such entrepreneur; and

"(II) whose commercial activities will, during the 2-year period beginning on the date on which the visa is issued under this subparagraph—

"(aa) create not fewer than 5 new full-time jobs in the United States employing people other than the immigrant's spouse, sons, or daughters;

"(bb) raise not less than $500,000 in capital investment in furtherance of a commercial entity based in the United States; or

"(cc) generate not less than $500,000 in revenue;

"(ii)(I) who—

"(aa) hold an unexpired H1–B visa; or

"(bb) have completed a graduate level degree in science, technology, engineering, math, computer science, or other relevant academic discipline from an accredited United States college, university, or other institution of higher education;

"(II) who demonstrate—

"(aa) annual income of not less than 250 percent of the Federal poverty level; or

"(bb) the possession of assets equivalent to not less than 2 years of income at 250 percent of the Federal poverty level; and

"(III) who have proven that a qualified venture capitalist, a qualified super angel investor, or a qualified government entity, as determined by the Secretary of Homeland Security, has invested not less than $20,000 on behalf of each such entrepreneur; or

"(iii) who have a controlling interest in a foreign company—

"(I) that has generated, during the most recent 12-month period, not less than $100,000 in revenue from sales in the United States; and

"(II) whose commercial activities, during the 2-year period beginning on the date on which the visa is issued under this subparagraph, will—

"(aa) create not fewer than 3 new full-time jobs in the United States that employ people other than the immigrant's spouse, sons, or daughters;

"(bb) raise not less than $100,000 in capital investment in

furtherance of a commercial entity based in the United States; or

"(cc) generate not less than $100,000 in revenue.

"(B) REVOCATION.—If the Secretary of Homeland Security determines that the commercial activities of an alien who received a StartUp visa pursuant to subparagraph (A)(i)(II) fail to meet the requirements under such subparagraph, the Secretary shall, not later than 1 year after the end of the applicable 2-year period described in such subparagraph—

"(i) revoke such visa; and

"(ii) notify the alien that he or she—

"(I) may voluntarily depart from the United States in accordance to section 240B; or

"(II) will be subject to removal proceedings under section 240 if the alien does not depart from the United States not later than 6 months after receiving such notification.

"(C) DEFINITIONS.—In this paragraph:

"(i) QUALIFIED SUPER ANGEL INVESTOR.—The term 'qualified super angel investor' means an individual who—

"(I) is an accredited investor (as defined in section 230.501(a) of title 17, Code of Federal Regulations);

"(II) is a United States citizen; and

"(III) has made at least 2 equity investments of not less than $50,000 in each of the previous 3 years.

"(ii) QUALIFIED VENTURE CAPITALIST.—The term 'qualified venture capitalist' means an entity that—

"(I) is classified as a 'venture capital operating company' under section 2510.3–101(d) of title 29, Code of Federal Regulations;

"(II) is based in the United States;

"(III) is comprised of partners, the majority of whom are United States citizens;

"(IV) has capital commitments of not less than $10,000,000;

"(V) has been operating for at least 2 years; and

"(VI) has made at least 2 investments of not less than $500,000 during each of the most recent 2 years.".

(b) CONDITIONAL PERMANENT RESIDENT STATUS.—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "(as defined in subsection (f)(1))" and inserting ", sponsored entrepreneur"; and

(ii) by striking "(as defined in subsection (f)(2)) shall" and inserting "shall each"; and

(B) in paragraph (2)(A), by inserting "sponsored entrepreneur," after "alien entrepreneur,";

(3) in subsection (b), by adding at the end the following:

"(3) SPONSORED ENTREPRENEURS.—The Secretary of Homeland Security shall terminate the permanent resident status of a sponsored entrepreneur and the alien spouse and children of such entrepreneur if the Secretary determines, not later than 3 years after the date on which such permanent resident status was conferred, that—

"(A) the qualified venture capitalist or qualified super angel investor who sponsored the entrepreneur failed to meet the investment requirements under section 203(b)(6)(A)(i); or

"(B) the entrepreneur failed to meet the job creation, capital investment, or revenue generation requirements under section 203(b)(6)(A)(ii).";

(4) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "sponsored entrepreneur," after "alien entrepreneur,"; and

(ii) by striking "alien entrepreneur must" each place such term appears and inserting "entrepreneur shall"; and

(B) in paragraph (3)—

(i) in subparagraph (A)(ii), by inserting ''or sponsored entrepreneur'' after ''alien entrepreneur''; and

(ii) in subparagraph (C), by inserting ''sponsored entrepreneur,'' after ''alien entrepreneur'';

(5) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A), by striking ''alien'' and inserting ''alien entrepreneur or sponsored entrepreneur, as applicable'';

(B) in clause (i), by striking ''invested, or is actively in the process of investing,'' and inserting ''has invested, is actively in the process of investing, or has been sponsored by a qualified super angel investor or qualified venture capitalist who has invested,''; and

(C) in clause (ii), by inserting ''or 203(b)(6), as applicable'' before the period at the end; and

(6) in subsection (f), by adding at the end the following:

''(4) The term 'sponsored entrepreneur' means an alien who obtains the status of an alien lawfully

admitted for permanent residence under section 203(b)(6).''.

SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the StartUp Visa Program, authorized under section 203(b)(6) of the Immigration and Nationality Act, as added by section 2.

(b) CONTENTS.—The report described in subsection (a) shall include information regarding—

(1) the number of immigrant entrepreneurs who have received a visa under the immigrant entrepreneurs program established under section 203(b)(6) of the Immigration and Nationality Act, listed by country of origin;

(2) the localities in which such immigrant entrepreneurs have initially settled;

(3) whether such immigrant entrepreneurs generally remain in the localities in which they initially settle;

(4) the types of commercial enterprises that such immigrant entrepreneurs have established; and

(5) the types and number of jobs created by such immigrant entrepreneurs.

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