

1 (1) identifies potential waste, fraud, abuse, inef-  
2 ficiencies, or deficiencies; and

3 (2) includes an analysis of staff capacity, in-  
4 cluding human resource needs, available resources,  
5 procedural guidance, and monitoring and evaluation  
6 processes to ensure that the Bureau of African Af-  
7 fairs is managing programs efficiently and effec-  
8 tively.

9 (i) FORM.—The strategies required under para-  
10 graphs (2) and (3) of subsection (d) and the report re-  
11 quired under subsection (f) shall be submitted in unclassi-  
12 fied form, but may include a classified annex.

13 **SEC. 105. RULE OF CONSTRUCTION.**

14 Nothing in this division may be construed as author-  
15 izing the use of military force.

16 **DIVISION BB—EB-5 REFORM**  
17 **AND INTEGRITY ACT OF 2022**

18 **SEC. 101. SHORT TITLE.**

19 This division may be cited as the “EB-5 Reform and  
20 Integrity Act of 2022”.

21 **SEC. 102. EB-5 VISA REFORMS.**

22 (a) EMPLOYMENT CREATION.—Section 203(b)(5) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1153(b)(5)) is amended—

25 (1) in subparagraph (A)—

1 (A) in clause (i), by striking “(C), and”  
2 and inserting “(C) and which is expected to re-  
3 main invested for not less than 2 years; and”;  
4 and

5 (B) in clause (ii)—

6 (i) by striking “and create” and in-  
7 serting “by creating”; and

8 (ii) by inserting “, United States na-  
9 tionals,” after “citizens”;

10 (2) by amending subparagraph (B) to read as  
11 follows:

12 “(B) DESIGNATIONS AND RESERVED  
13 VISAS.—

14 “(i) RESERVED VISAS.—

15 “(I) IN GENERAL.—Of the visas  
16 made available under this paragraph  
17 in each fiscal year—

18 “(aa) 20 percent shall be re-  
19 served for qualified immigrants  
20 who invest in a rural area;

21 “(bb) 10 percent shall be re-  
22 served for qualified immigrants  
23 who invest in an area designated  
24 by the Secretary of Homeland

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1 Security under clause (ii) as a  
2 high unemployment area; and

3 “(cc) 2 percent shall be re-  
4 served for qualified immigrants  
5 who invest in infrastructure  
6 projects.

7 “(II) UNUSED VISAS.—

8 “(aa) CARRYOVER.—At the  
9 end of each fiscal year, any un-  
10 used visas reserved for qualified  
11 immigrants investing in each of  
12 the categories described in items  
13 (aa) through (cc) of subclause (I)  
14 shall remain available within the  
15 same category for the imme-  
16 diately succeeding fiscal year.

17 “(bb) GENERAL AVAIL-  
18 ABILITY.—Visas described in  
19 items (aa) through (cc) of sub-  
20 clause (I) that are not issued by  
21 the end of the succeeding fiscal  
22 year referred to in item (aa) shall  
23 be made available to qualified im-  
24 migrants described under sub-  
25 paragraph (A).

1                   “(ii) DESIGNATION OF HIGH UNEM-  
2                   PLOYMENT AREA.—

3                   “(I) IN GENERAL.—The Sec-  
4                   retary of Homeland Security, or a  
5                   designee of the Secretary who is an  
6                   employee of the Department of Home-  
7                   land Security, may designate, as a  
8                   high unemployment area, a census  
9                   tract, or contiguous census tracts, in  
10                  which—

11                  “(aa) the new commercial  
12                  enterprise is principally doing  
13                  business; and

14                  “(bb) the weighted average  
15                  of the unemployment rate for the  
16                  census tracts, based on the labor  
17                  force employment measure for  
18                  each applicable census tract and  
19                  any adjacent tract included under  
20                  subclause (III), is not less than  
21                  150 percent of the national aver-  
22                  age unemployment rate.

23                  “(II) PROHIBITION ON DESIGNA-  
24                  TION BY ANY OTHER OFFICIAL.—A  
25                  targeted employment area may not be



1 designated as a high unemployment  
2 area by—

3 “(aa) a Federal official  
4 other than the Secretary of  
5 Homeland Security or a designee  
6 of the Secretary; or

7 “(bb) any official of a State  
8 or local government.

9 “(III) INCLUSION.—In making a  
10 designation under subclause (I), the  
11 Secretary of Homeland Security may  
12 include a census tract directly adja-  
13 cent to a census tract or contiguous  
14 census tracts described in that sub-  
15 clause.

16 “(IV) DURATION.—

17 “(aa) IN GENERAL.—A des-  
18 ignation under this clause shall  
19 be in effect for the 2-year period  
20 beginning on—

21 “(AA) the date on  
22 which an application under  
23 subparagraph (F) is filed; or

24 “(BB) in the case of an  
25 alien who is not subject to

1                   subparagraph (F), at the  
2                   time of investment.

3                   “(bb) RENEWAL.—A des-  
4                   ignation under this clause may be  
5                   renewed for 1 or more additional  
6                   2-year periods if the applicable  
7                   area continues to meet the cri-  
8                   teria described in subclause (I).

9                   “(V) ADDITIONAL INVESTMENT  
10                  NOT REQUIRED.—An immigrant in-  
11                  vestor who has invested the amount of  
12                  capital required by subparagraph (C)  
13                  in a targeted employment area des-  
14                  ignated as a high unemployment area  
15                  during the period in which the area is  
16                  so designated shall not be required to  
17                  increase the amount of investment  
18                  due to the expiration of the designa-  
19                  tion.

20                  “(iii) INFRASTRUCTURE PROJECTS.—

21                  “(I) IN GENERAL.—The Sec-  
22                  retary of Homeland Security shall de-  
23                  termine whether a specific capital in-  
24                  vestment project meets the definition

1 of ‘infrastructure project’ set forth in  
2 subparagraph (D)(iv).

3 “(II) PROHIBITION ON DESIGNA-  
4 TION BY ANY OTHER OFFICIAL.—A  
5 determination under subclause (I)  
6 may not be made by—

7 “(aa) a Federal official  
8 other than the Secretary of  
9 Homeland Security or a designee  
10 of the Secretary; or

11 “(bb) any official of a State  
12 or local government.”;

13 (3) in subparagraph (C)—

14 (A) in clause (i), by striking “\$1,000,000”  
15 and all that follows through “previous sen-  
16 tence” and inserting “\$1,050,000”;

17 (B) by amending clause (ii) to read as fol-  
18 lows:

19 “(ii) ADJUSTMENT FOR TARGETED  
20 EMPLOYMENT AREAS AND INFRASTRUC-  
21 TURE PROJECTS.—The amount of capital  
22 required under subparagraph (A) for an  
23 investment in a targeted employment area  
24 or in an infrastructure project shall be  
25 \$800,000.”;

1 (C) by redesignating clause (iii) as clause  
2 (iv);

3 (D) by inserting after clause (ii) the fol-  
4 lowing:

5 “(iii) AUTOMATIC ADJUSTMENT IN  
6 MINIMUM INVESTMENT AMOUNT.—

7 “(I) IN GENERAL.—Beginning on  
8 January 1, 2027, and every 5 years  
9 thereafter, the amount in clause (i)  
10 shall automatically adjust for petitions  
11 filed on or after the effective date of  
12 each adjustment, based on the cumu-  
13 lative annual percentage change in the  
14 unadjusted consumer price index for  
15 all urban consumers (all items; U.S.  
16 city average) reported by the Bureau  
17 of Labor Statistics between January  
18 1, 2022, and the date of adjustment.  
19 The qualifying investment amounts  
20 shall be rounded down to the nearest  
21 \$50,000. The Secretary of Homeland  
22 Security shall update such amounts  
23 by publication of a technical amend-  
24 ment in the Federal Register.

1                   “(II) Beginning on January 1,  
2                   2027, and every 5 years thereafter,  
3                   the amount in clause (ii) shall auto-  
4                   matically adjust for petitions filed on  
5                   or after the effective date of each ad-  
6                   justment, to be equal to 75 percent of  
7                   the standard investment amount  
8                   under subclause (I).”; and

9                   (E) in clause (iv), as redesignated, in the  
10                  undesignated matter following subclause (II)—

11                  (i) by striking “Attorney General”  
12                  and inserting “Secretary of Homeland Se-  
13                  curity”; and

14                  (ii) by inserting “, as adjusted under  
15                  clause (iii)” before the period at the end;  
16                  and

17                  (4) by amending subparagraph (D) to read as  
18                  follows:

19                  “(D) DEFINITIONS.—In this paragraph:

20                         “(i) AFFILIATED JOB-CREATING ENTI-  
21                         TY.—The term ‘affiliated job-creating enti-  
22                         ty’ means any job-creating entity that is  
23                         controlled, managed, or owned by any of  
24                         the people involved with the regional center

1 or new commercial enterprise under section  
2 203(b)(5)(H)(v).

3 “(ii) CAPITAL.—The term ‘capital’—

4 “(I) means cash and all real, per-  
5 sonal, or mixed tangible assets owned  
6 and controlled by the alien investor,  
7 or held in trust for the benefit of the  
8 alien and to which the alien has unre-  
9 stricted access;

10 “(II) shall be valued at fair mar-  
11 ket value in United States dollars, in  
12 accordance with Generally Accepted  
13 Accounting Principles or other stand-  
14 ard accounting practice adopted by  
15 the Securities and Exchange Commis-  
16 sion, at the time it is invested under  
17 this paragraph;

18 “(III) does not include—

19 “(aa) assets directly or indi-  
20 rectly acquired by unlawful  
21 means, including any cash pro-  
22 ceeds of indebtedness secured by  
23 such assets;

24 “(bb) capital invested in ex-  
25 change for a note, bond, convert-

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1           ible debt, obligation, or any other  
2           debt arrangement between the  
3           alien investor and the new com-  
4           mercial enterprise;

5                   “(cc) capital invested with a  
6                   guaranteed rate of return on the  
7                   amount invested by the alien in-  
8                   vestor; or

9                   “(dd) except as provided in  
10                  subclause (IV), capital invested  
11                  that is subject to any agreement  
12                  between the alien investor and  
13                  the new commercial enterprise  
14                  that provides the investor with a  
15                  contractual right to repayment,  
16                  such as a mandatory redemption  
17                  at a certain time or upon the oc-  
18                  currence of a certain event, or a  
19                  put or sell-back option held by  
20                  the alien investor, even if such  
21                  contractual right is contingent on  
22                  the success of the new commer-  
23                  cial enterprise, such as having  
24                  sufficient available cash flow; and

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1 “(IV) includes capital invested  
2 that—

3 “(aa) is subject to a buy  
4 back option that may be exer-  
5 cised solely at the discretion of  
6 the new commercial enterprise;  
7 and

8 “(bb) results in the alien in-  
9 vestor withdrawing his or her pe-  
10 tition unless the alien investor  
11 has fulfilled his or her  
12 sustainment period and other re-  
13 quirements under this paragraph.

14 “(iii) CERTIFIER.—The term ‘cer-  
15 tifier’ means a person in a position of sub-  
16 stantive authority for the management or  
17 operations of a regional center, new com-  
18 mercial enterprise, affiliated job-creating  
19 entity, or issuer of securities, such as a  
20 principal executive officer or principal fi-  
21 nancial officer, with knowledge of such en-  
22 tities’ policies and procedures related to  
23 compliance with the requirements under  
24 this paragraph.



1                   “(iv) INFRASTRUCTURE PROJECT.—

2                   The term ‘infrastructure project’ means a  
3                   capital investment project in a filed or ap-  
4                   proved business plan, which is adminis-  
5                   tered by a governmental entity (such as a  
6                   Federal, State, or local agency or author-  
7                   ity) that is the job-creating entity con-  
8                   tracting with a regional center or new com-  
9                   mercial enterprise to receive capital invest-  
10                  ment under the regional center program  
11                  described in subparagraph (E) from alien  
12                  investors or the new commercial enterprise  
13                  as financing for maintaining, improving, or  
14                  constructing a public works project.

15                  “(v) JOB-CREATING ENTITY.—The  
16                  term ‘job-creating entity’ means any orga-  
17                  nization formed in the United States for  
18                  the ongoing conduct of lawful business, in-  
19                  cluding sole proprietorship, partnership  
20                  (whether limited or general), corporation,  
21                  limited liability company, business trust, or  
22                  other entity, which may be publicly or pri-  
23                  vately owned, including an entity con-  
24                  sisting of a holding company and its wholly  
25                  owned subsidiaries or affiliates (provided

1           that each subsidiary or affiliate is engaged  
2           in an activity formed for the ongoing con-  
3           duct of a lawful business) that receives, or  
4           is established to receive, capital investment  
5           from alien investors or a new commercial  
6           enterprise under the regional center pro-  
7           gram described in this subparagraph and  
8           which is responsible for creating jobs to  
9           satisfy the requirement under subpara-  
10          graph (A)(ii).

11           “(vi) NEW COMMERCIAL ENTER-  
12          PRISE.—The term ‘new commercial enter-  
13          prise’ means any for-profit organization  
14          formed in the United States for the ongo-  
15          ing conduct of lawful business, including  
16          sole proprietorship, partnership (whether  
17          limited or general), holding company and  
18          its wholly owned subsidiaries (provided  
19          that each subsidiary is engaged in a for-  
20          profit activity formed for the ongoing con-  
21          duct of a lawful business), joint venture,  
22          corporation, business trust, limited liability  
23          company, or other entity (which may be  
24          publicly or privately owned) that receives,

1 or is established to receive, capital invest-  
2 ment from investors under this paragraph.

3 “(vii) RURAL AREA.—The term ‘rural  
4 area’ means any area other than an area  
5 within a metropolitan statistical area (as  
6 designated by the Director of the Office of  
7 Management and Budget) or within the  
8 outer boundary of any city or town having  
9 a population of 20,000 or more (based on  
10 the most recent decennial census of the  
11 United States).

12 “(viii) TARGETED EMPLOYMENT  
13 AREA.—The term ‘targeted employment  
14 area’ means, at the time of investment, a  
15 rural area or an area designated by the  
16 Secretary of Homeland Security under  
17 subparagraph (B)(ii) as a high unemploy-  
18 ment area.”.

19 (b) AGE DETERMINATION FOR CHILDREN OF ALIEN  
20 INVESTORS.—Section 203(h) of the Immigration and Na-  
21 tionality Act (8 U.S.C. 1153(h)) is amended by adding  
22 at the end the following:

23 “(5) AGE DETERMINATION FOR CHILDREN OF  
24 ALIEN INVESTORS.—An alien who has reached 21  
25 years of age and has been admitted under subsection

1 (d) as a lawful permanent resident on a conditional  
2 basis as the child of an alien lawfully admitted for  
3 permanent residence under subsection (b)(5), whose  
4 lawful permanent resident status on a conditional  
5 basis is terminated under section 216A or subsection  
6 (b)(5)(M), shall continue to be considered a child of  
7 the principal alien for the purpose of a subsequent  
8 immigrant petition by such alien under subsection  
9 (b)(5) if the alien remains unmarried and the subse-  
10 quent petition is filed by the principal alien not later  
11 than 1 year after the termination of conditional law-  
12 ful permanent resident status. No alien shall be con-  
13 sidered a child under this paragraph with respect to  
14 more than 1 petition filed after the alien reaches 21  
15 years of age.”.

16 (c) ENHANCED PAY SCALE FOR CERTAIN FEDERAL  
17 EMPLOYEES ADMINISTERING THE EMPLOYMENT CRE-  
18 ATION PROGRAM.—The Secretary of Homeland Security  
19 may establish, fix the compensation of, and appoint indi-  
20 viduals to designated critical, technical, and professional  
21 positions needed to administer sections 203(b)(5) and  
22 216A of the Immigration and Nationality Act (8 U.S.C.  
23 1153(b)(5) and 1186b).

24 (d) CONCURRENT FILING OF EB–5 PETITIONS AND  
25 APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section

1 245 of the Immigration and Nationality Act (8 U.S.C.  
2 1255) is amended—

3 (1) in subsection (k), in the matter preceding  
4 paragraph (1), by striking “or (3)” and inserting  
5 “(3), or (5)”; and

6 (2) by adding at the end the following:

7 “(n) If the approval of a petition for classification  
8 under section 203(b)(5) would make a visa immediately  
9 available to the alien beneficiary, the alien beneficiary’s  
10 application for adjustment of status under this section  
11 shall be considered to be properly filed whether the appli-  
12 cation is submitted concurrently with, or subsequent to,  
13 the visa petition.”.

14 (e) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on the date of the enactment  
16 of this Act.

17 **SEC. 103. REAUTHORIZATION AND REFORM OF THE RE-**  
18 **GIONAL CENTER PROGRAM.**

19 (a) REPEAL.—Section 610 of the Departments of  
20 Commerce, Justice, and State, the Judiciary, and Related  
21 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
22 is repealed.

23 (b) AUTHORIZATION.—

1           (1) IN GENERAL.—Section 203(b)(5) of the Im-  
2 migration and Nationality Act (8 U.S.C. 1153(b)(5))  
3 is amended by adding at the end the following:

4           “(E) REGIONAL CENTER PROGRAM.—

5           “(i) IN GENERAL.—Visas under this  
6 subparagraph shall be made available  
7 through September 30, 2027, to qualified  
8 immigrants (and the eligible spouses and  
9 children of such immigrants) pooling their  
10 investments with 1 or more qualified immi-  
11 grants participating in a program imple-  
12 menting this paragraph that involves a re-  
13 gional center in the United States, which  
14 has been designated by the Secretary of  
15 Homeland Security on the basis of a pro-  
16 posal for the promotion of economic  
17 growth, including prospective job creation  
18 and increased domestic capital investment.

19           “(ii) PROCESSING.—In processing pe-  
20 titions under section 204(a)(1)(H) for clas-  
21 sification under this paragraph, the Sec-  
22 retary of Homeland Security—

23           “(I) shall prioritize the proc-  
24 essing and adjudication of petitions  
25 for rural areas;

1 “(II) may process petitions in a  
2 manner and order established by the  
3 Secretary; and

4 “(III) shall deem such petitions  
5 to include records previously filed with  
6 the Secretary pursuant to subpara-  
7 graph (F) if the alien petitioner cer-  
8 tifies that such records are incor-  
9 porated by reference into the alien’s  
10 petition.

11 “(iii) ESTABLISHMENT OF A RE-  
12 GIONAL CENTER.—A regional center shall  
13 operate within a defined, contiguous, and  
14 limited geographic area, which shall be de-  
15 scribed in the proposal and be consistent  
16 with the purpose of concentrating pooled  
17 investment within such area. The proposal  
18 to establish a regional center shall dem-  
19 onstrate that the pooled investment will  
20 have a substantive economic impact on  
21 such geographic area, and shall include—

22 “(I) reasonable predictions, sup-  
23 ported by economically and statis-  
24 tically valid and transparent fore-  
25 casting tools, concerning the amount

1 of investment that will be pooled, the  
2 kinds of commercial enterprises that  
3 will receive such investments, details  
4 of the jobs that will be created di-  
5 rectly or indirectly as a result of such  
6 investments, and other positive eco-  
7 nomic effects such investments will  
8 have;

9 “(II) a description of the policies  
10 and procedures in place reasonably  
11 designed to monitor new commercial  
12 enterprises and any associated job-  
13 creating entity to seek to ensure com-  
14 pliance with—

15 “(aa) all applicable laws,  
16 regulations, and Executive orders  
17 of the United States, including  
18 immigration laws, criminal laws,  
19 and securities laws; and

20 “(bb) all securities laws of  
21 each State in which securities of-  
22 ferings will be conducted, invest-  
23 ment advice will be rendered, or  
24 the offerors or offerees reside;



1 “(III) attestations and informa-  
2 tion confirming that all persons in-  
3 volved with the regional center meet  
4 the requirements under clauses (i)  
5 and (ii) of subparagraph (H);

6 “(IV) a description of the policies  
7 and procedures in place that are rea-  
8 sonably designed to ensure program  
9 compliance; and

10 “(V) the identities of all natural  
11 persons involved in the regional cen-  
12 ter, as described in subparagraph  
13 (H)(v).

14 “(iv) INDIRECT JOB CREATION.—

15 “(I) IN GENERAL.—The Sec-  
16 retary of Homeland Security shall  
17 permit aliens seeking admission under  
18 this subparagraph to satisfy only up  
19 to 90 percent of the requirement  
20 under subparagraph (A)(ii) with jobs  
21 that are estimated to be created indi-  
22 rectly through investment under this  
23 paragraph in accordance with this  
24 subparagraph. An employee of the  
25 new commercial enterprise or job-cre-

1           ating entity may be considered to hold  
2           a job that has been directly created.

3                   “(II) CONSTRUCTION ACTIVITY  
4           LASTING LESS THAN 2 YEARS.—If the  
5           jobs estimated to be created are cre-  
6           ated by construction activity lasting  
7           less than 2 years, the Secretary shall  
8           permit aliens seeking admission under  
9           this subparagraph to satisfy only up  
10          to 75 percent of the requirement  
11          under subparagraph (A)(ii) with jobs  
12          that are estimated to be created indi-  
13          rectly through investment under this  
14          paragraph in accordance with this  
15          subparagraph.

16                   “(v) COMPLIANCE.—

17                           “(I) IN GENERAL.—In deter-  
18           mining compliance with subparagraph  
19           (A)(ii), the Secretary of Homeland Se-  
20           curity shall permit aliens seeking ad-  
21           mission under this subparagraph to  
22           rely on economically and statistically  
23           valid methodologies for determining  
24           the number of jobs created by the pro-  
25           gram, including—

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1 “(aa) jobs estimated to have  
2 been created directly, which may  
3 be verified using such methodolo-  
4 gies; and

5 “(bb) consistent with this  
6 subparagraph, jobs estimated to  
7 have been directly or indirectly  
8 created through capital expendi-  
9 tures, revenues generated from  
10 increased exports, improved re-  
11 gional productivity, job creation,  
12 and increased domestic capital  
13 investment resulting from the  
14 program.

15 “(II) JOB AND INVESTMENT RE-  
16 QUIREMENTS.—

17 “(aa) RELOCATED JOBS.—  
18 In determining compliance with  
19 the job creation requirement  
20 under subparagraph (A)(ii), the  
21 Secretary of Homeland Security  
22 may include jobs estimated to be  
23 created under a methodology that  
24 attributes jobs to prospective ten-  
25 ants occupying commercial real

1 estate created or improved by  
2 capital investments if the number  
3 of such jobs estimated to be cre-  
4 ated has been determined by an  
5 economically and statistically  
6 valid methodology and such jobs  
7 are not existing jobs that have  
8 been relocated.

9 “(bb) PUBLICLY AVAILABLE  
10 BONDS.—The Secretary of  
11 Homeland Security shall pre-  
12 scribe regulations to ensure that  
13 alien investor capital may not be  
14 utilized, by a new commercial en-  
15 terprise or otherwise, to purchase  
16 municipal bonds or any other  
17 bonds, if such bonds are available  
18 to the general public, either as  
19 part of a primary offering or  
20 from a secondary market.

21 “(cc) CONSTRUCTION ACTIV-  
22 ITY JOBS.—If the number of di-  
23 rect jobs estimated to be created  
24 has been determined by an eco-  
25 nomically and statistically valid

1 methodology, and such direct  
2 jobs are created by construction  
3 activity lasting less than 2 years,  
4 the number of such jobs that  
5 may be considered direct jobs for  
6 purposes of clause (iv) shall be  
7 calculated by multiplying the  
8 total number of such jobs esti-  
9 mated to be created by the frac-  
10 tion of the 2-year period that the  
11 construction activity lasts.

12 “(vi) AMENDMENTS.—The Secretary  
13 of Homeland Security shall—

14 “(I) require a regional center—  
15 “(aa) to notify the Sec-  
16 retary, not later than 120 days  
17 before the implementation of sig-  
18 nificant proposed changes to its  
19 organizational structure, owner-  
20 ship, or administration, including  
21 the sale of such center, or other  
22 arrangements which would result  
23 in individuals not previously sub-  
24 ject to the requirements under  
25 subparagraph (H) becoming in-

1                   volved with the regional center;  
2                   or

3                   “(bb) if exigent cir-  
4                   cumstances are present, to pro-  
5                   vide the notice described in item  
6                   (aa) to the Secretary not later  
7                   than 5 business days after a  
8                   change described in such item;  
9                   and

10                  “(II) adjudicate business plans  
11                  under subparagraph (F) and petitions  
12                  under section 204(a)(1)(H) during  
13                  any notice period as long as the  
14                  amendment to the business or petition  
15                  does not negatively impact program  
16                  eligibility.

17                  “(vii) RECORD KEEPING AND AU-  
18                  DITS.—

19                  “(I) RECORD KEEPING.—Each  
20                  regional center shall make and pre-  
21                  serve, during the 5-year period begin-  
22                  ning on the last day of the Federal  
23                  fiscal year in which any transactions  
24                  occurred, books, ledgers, records, and  
25                  other documentation from the regional

center, new commercial enterprise, or  
job-creating entity used to support—

“(aa) any claims, evidence,  
or certifications contained in the  
regional center’s annual state-  
ments under subparagraph (G);  
and

“(bb) associated petitions by  
aliens seeking classification under  
this section or removal of condi-  
tions under section 216A.

“(II) AUDITS.—The Secretary  
shall audit each regional center not  
less frequently than once every 5  
years. Each such audit shall include a  
review of any documentation required  
to be maintained under subclause (I)  
for the preceding 5 years and a review  
of the flow of alien investor capital  
into any capital investment project.  
To the extent multiple regional cen-  
ters are located at a single site, the  
Secretary may audit multiple regional  
centers in a single site visit.

1                   “(III) TERMINATION.—The Sec-  
2                   retary shall terminate the designation  
3                   of a regional center that fails to con-  
4                   sent to an audit under subclause (II)  
5                   or deliberately attempts to impede  
6                   such an audit.

7                   “(F) BUSINESS PLANS FOR REGIONAL  
8                   CENTER INVESTMENTS.—

9                   “(i) APPLICATION FOR APPROVAL OF  
10                  AN INVESTMENT IN A COMMERCIAL EN-  
11                  TERPRISE.—A regional center shall file an  
12                  application with the Secretary of Home-  
13                  land Security for each particular invest-  
14                  ment offering through an associated new  
15                  commercial enterprise before any alien files  
16                  a petition for classification under this  
17                  paragraph by reason of investment in that  
18                  offering. The application shall include—

19                  “(I) a comprehensive business  
20                  plan for a specific capital investment  
21                  project;

22                  “(II) a credible economic analysis  
23                  regarding estimated job creation that  
24                  is based upon economically and statis-



1 tically valid and transparent meth-  
2 odologies;

3 “(III) any documents filed with  
4 the Securities and Exchange Commis-  
5 sion under the Securities Act of 1933  
6 (15 U.S.C. 77a et seq.) or with the  
7 securities regulator of any State, as  
8 required by law;

9 “(IV) any investment and offer-  
10 ing documents, including subscription,  
11 investment, partnership, and oper-  
12 ating agreements, private placement  
13 memoranda, term sheets, biographies  
14 of management, officers, directors,  
15 and any person with similar respon-  
16 sibilities, the description of the busi-  
17 ness plan to be provided to potential  
18 alien investors, and marketing mate-  
19 rials used, or drafts prepared for use,  
20 in connection with the offering, which  
21 shall contain references, as appro-  
22 priate, to—

23 “(aa) all material invest-  
24 ment risks associated with the

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1 new commercial enterprise and  
2 the job-creating entity;

3 “(bb) any conflicts of inter-  
4 est that currently exist or may  
5 arise among the regional center,  
6 the new commercial enterprise,  
7 the job-creating entity, or the  
8 principals, attorneys, or individ-  
9 uals responsible for recruitment  
10 or promotion of such entities;

11 “(cc) any pending material  
12 litigation or bankruptcy, or mate-  
13 rial adverse judgments or bank-  
14 ruptcy orders issued during the  
15 most recent 10-year period, in  
16 the United States or in another  
17 country, affecting the regional  
18 center, the new commercial enter-  
19 prise, any associated job-creating  
20 entity, or any other enterprise in  
21 which any principal of any of the  
22 aforementioned entities held ma-  
23 jority ownership at the time; and

24 “(dd)(AA) any fees, ongoing  
25 interest, or other compensation

1 paid, or to be paid by the re-  
2 gional center, the new commer-  
3 cial enterprise, or any issuer of  
4 securities intended to be offered  
5 to alien investors, to agents, find-  
6 ers, or broker dealers involved in  
7 the offering of securities to alien  
8 investors in connection with the  
9 investment;

10 “(BB) a description of the  
11 services performed, or that will  
12 be performed, by such person to  
13 entitle the person to such fees,  
14 interest, or compensation; and

15 “(CC) the name and contact  
16 information of any such person,  
17 if known at the time of filing;

18 “(V) a description of the policies  
19 and procedures, such as those related  
20 to internal and external due diligence,  
21 reasonably designed to cause the re-  
22 gional center and any issuer of securi-  
23 ties intended to be offered to alien in-  
24 vestors in connection with the relevant  
25 capital investment project, to comply,

1 as applicable, with the securities laws  
2 of the United States and the laws of  
3 the applicable States in connection  
4 with the offer, purchase, or sale of its  
5 securities; and

6 “(VI) a certification from the re-  
7 gional center, and any issuer of secu-  
8 rities intended to be offered to alien  
9 investors in connection with the rel-  
10 evant capital investment project, that  
11 their respective agents and employees,  
12 and any parties associated with the  
13 regional center and such issuer of se-  
14 curities affiliated with the regional  
15 center are in compliance with the se-  
16 curities laws of the United States and  
17 the laws of the applicable States in  
18 connection with the offer, purchase, or  
19 sale of its securities, to the best of the  
20 certifier’s knowledge, after a due dili-  
21 gence investigation.

22 “(ii) EFFECT OF APPROVAL OF A  
23 BUSINESS PLAN FOR AN INVESTMENT IN A  
24 REGIONAL CENTER’S COMMERCIAL ENTER-  
25 PRISE.—The approval of an application

1 under this subparagraph, including an ap-  
2 proval before the date of the enactment of  
3 this subparagraph, shall be binding for  
4 purposes of the adjudication of subsequent  
5 petitions seeking classification under this  
6 paragraph by immigrants investing in the  
7 same offering described in such applica-  
8 tion, and of petitions by the same immi-  
9 grants filed under section 216A unless—

10 “(I) the applicant engaged in  
11 fraud, misrepresentation, or criminal  
12 misuse;

13 “(II) such approval would threat-  
14 en public safety or national security;

15 “(III) there has been a material  
16 change that affects eligibility;

17 “(IV) the discovery of other evi-  
18 dence affecting program eligibility was  
19 not disclosed by the applicant during  
20 the adjudication process; or

21 “(V) the previous adjudication  
22 involved a material mistake of law or  
23 fact.

24 “(iii) AMENDMENTS.—

1                   “(I) APPROVAL.—The Secretary  
2 of Homeland Security may establish  
3 procedures by which a regional center  
4 may seek approval of an amendment  
5 to an approved application under this  
6 subparagraph that reflects changes  
7 specified by the Secretary to any in-  
8 formation, documents, or other as-  
9 pects of the investment offering de-  
10 scribed in such approved application  
11 not later than 30 days after any such  
12 changes.

13                   “(II) INCORPORATION.—Upon  
14 the approval of a timely filed amend-  
15 ment to an approved application, any  
16 changes reflected in such amendment  
17 may be incorporated into and consid-  
18 ered in determining program eligibility  
19 through adjudication of—

20                   “(aa) pending petitions from  
21 immigrants investing in the offer-  
22 ing described in the approved ap-  
23 plication who are seeking classi-  
24 fication under this paragraph;  
25 and

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1                   “(bb) petitions by immi-  
2                   grants described in item (aa)  
3                   that are filed under section  
4                   216A.

5                   “(iv) SITE VISITS.—The Secretary of  
6                   Homeland Security shall—

7                   “(I) perform site visits to re-  
8                   gional centers not earlier than 24  
9                   hours after providing notice of such  
10                  site visit; and

11                  “(II) perform at least 1 site visit  
12                  to, as applicable, each new commercial  
13                  enterprise or job-creating entity, or  
14                  the business locations where any jobs  
15                  that are claimed as being created.

16                  “(v) PARAMETERS FOR CAPITAL RE-  
17                  DEPLOYMENT.—

18                  “(I) IN GENERAL.—The Sec-  
19                  retary of Homeland Security shall  
20                  prescribe regulations, in accordance  
21                  with subchapter II of chapter 5 and  
22                  chapter 7 of title 5, United States  
23                  Code (commonly known as the ‘Ad-  
24                  ministrative Procedure Act’), that  
25                  allow a new commercial enterprise to

1 redeploy investment funds anywhere  
2 within the United States or its terri-  
3 tories for the purpose of maintaining  
4 the investors' capital at risk if—

5 “(aa) the new commercial  
6 enterprise has executed the busi-  
7 ness plan for a capital investment  
8 project in good faith without a  
9 material change;

10 “(bb) the new commercial  
11 enterprise has created a suffi-  
12 cient number of new full time po-  
13 sitions to satisfy the job creation  
14 requirements of the program for  
15 all investors in the new commer-  
16 cial enterprise, either directly or  
17 indirectly, as evidenced by the  
18 methodologies set forth in this  
19 Act;

20 “(cc) the job creating entity  
21 has repaid the capital initially de-  
22 ployed in conformity with the ini-  
23 tial investment contemplated by  
24 the business plan; and



1                   “(dd) the capital, after re-  
2                   payment by the job creating enti-  
3                   ty, remains at risk and it is not  
4                   redeployed in passive invest-  
5                   ments, such as stocks or bonds.

6                   “(II) TERMINATION.—The Sec-  
7                   retary of Homeland Security shall ter-  
8                   minate the designation of a regional  
9                   center if the Secretary determines  
10                  that a new commercial enterprise has  
11                  violated any of the requirements  
12                  under subclause (I) in the redeploy-  
13                  ment of funds invested in such re-  
14                  gional center.

15                  “(G) REGIONAL CENTER ANNUAL STATE-  
16                  MENTS.—

17                  “(i) IN GENERAL.—Each regional cen-  
18                  ter designated under subparagraph (E)  
19                  shall submit an annual statement, in a  
20                  manner prescribed by the Secretary of  
21                  Homeland Security. Each such statement  
22                  shall include—

23                  “(I) a certification stating that,  
24                  to the best of the certifier’s knowl-  
25                  edge, after a due diligence investiga-

1                   tion, the regional center is in compli-  
2                   ance with clauses (i) and (ii) of sub-  
3                   paragraph (H);

4                   “(II) a certification described in  
5                   subparagraph (I)(ii)(II);

6                   “(III) a certification stating that,  
7                   to the best of the certifier’s knowl-  
8                   edge, after a due diligence investiga-  
9                   tion, the regional center is in compli-  
10                  ance with subparagraph (K)(iii);

11                  “(IV) a description of any pend-  
12                  ing material litigation or bankruptcy  
13                  proceedings, or material litigation or  
14                  bankruptcy proceedings resolved dur-  
15                  ing the preceding fiscal year, involving  
16                  the regional center, the new commer-  
17                  cial enterprise, or any affiliated job-  
18                  creating entity;

19                  “(V) an accounting of all indi-  
20                  vidual alien investor capital invested  
21                  in the regional center, new commercial  
22                  enterprise, and job-creating entity;

23                  “(VI) for each new commercial  
24                  enterprise associated with the regional  
25                  center—

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1                   “(aa) an accounting of the  
2                   aggregate capital invested in the  
3                   new commercial enterprise and  
4                   any job-creating entity by alien  
5                   investors under this paragraph  
6                   for each capital investment  
7                   project being undertaken by the  
8                   new commercial enterprise;

9                   “(bb) a description of how  
10                  the capital described in item (aa)  
11                  is being used to execute each  
12                  capital investment project in the  
13                  filed business plan or plans;

14                  “(cc) evidence that 100 per-  
15                  cent of the capital described in  
16                  item (aa) has been committed to  
17                  each capital investment project;

18                  “(dd) detailed evidence of  
19                  the progress made toward the  
20                  completion of each capital invest-  
21                  ment project;

22                  “(ee) an accounting of the  
23                  aggregate direct jobs created or  
24                  preserved;

1                   “(ff) to the best of the re-  
2                   gional center’s knowledge, for all  
3                   fees, including administrative  
4                   fees, loan monitoring fees, loan  
5                   management fees, commissions  
6                   and similar transaction-based  
7                   compensation, collected from  
8                   alien investors by the regional  
9                   center, the new commercial enter-  
10                  prise, any affiliated job-creating  
11                  entity, any affiliated issuer of se-  
12                  curities intended to be offered to  
13                  alien investors, or any promoter,  
14                  finder, broker-dealer, or other en-  
15                  tity engaged by any of the afore-  
16                  mentioned entities to locate indi-  
17                  vidual investors—

18                               “(AA) a description of  
19                               all fees collected;

20                               “(BB) an accounting of  
21                               the entities that received  
22                               such fees; and

23                               “(CC) the purpose for  
24                               which such fees were col-  
25                               lected;

1 “(gg) any documentation re-  
2 ferred to in subparagraph  
3 (F)(i)(IV) if there has been a  
4 material change during the pre-  
5 ceding fiscal year; and

6 “(hh) a certification by the  
7 regional center that the informa-  
8 tion provided under items (aa)  
9 through (gg) is accurate, to the  
10 best of the certifier’s knowledge,  
11 after a due diligence investiga-  
12 tion; and

13 “(VII) a description of the re-  
14 gional center’s policies and procedures  
15 that are designed to enable the re-  
16 gional center to comply with applica-  
17 ble Federal labor laws.

18 “(ii) AMENDMENT OF ANNUAL STATE-  
19 MENTS.—The Secretary of Homeland Se-  
20 curity—

21 “(I) shall require the regional  
22 center to amend or supplement an an-  
23 nual statement required under clause  
24 (i) if the Secretary determines that  
25 such statement is deficient; and

1 “(II) may require the regional  
2 center to amend or supplement such  
3 annual statement if the Director de-  
4 termines that such an amendment or  
5 supplement is appropriate.

6 “(iii) SANCTIONS.—

7 “(I) EFFECT OF VIOLATION.—  
8 The Director shall sanction any re-  
9 gional center entity in accordance  
10 with subclause (II) if the regional cen-  
11 ter fails to submit an annual state-  
12 ment or if the Director determines  
13 that the regional center—

14 “(aa) knowingly submitted  
15 or caused to be submitted a  
16 statement, certification, or any  
17 information submitted pursuant  
18 to this subparagraph that con-  
19 tained an untrue statement of  
20 material fact; or

21 “(bb) is conducting itself in  
22 a manner inconsistent with its  
23 designation under subparagraph  
24 (E), including any willful, undis-  
25 closed, and material deviation by

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1 new commercial enterprises from  
2 any filed business plan for such  
3 new commercial enterprises.

4 “(II) AUTHORIZED SANCTIONS.—  
5 The Director shall establish a grad-  
6 uated set of sanctions based on the  
7 severity of the violations referred to in  
8 subclause (I), including—

9 “(aa) fines equal to not  
10 more than 10 percent of the total  
11 capital invested by alien investors  
12 in the regional center’s new com-  
13 mercial enterprises or job-cre-  
14 ating entities directly involved in  
15 such violations, the payment of  
16 which shall not in any cir-  
17 cumstance utilize any of such  
18 alien investors’ capital invest-  
19 ments, and which shall be depos-  
20 ited into the EB–5 Integrity  
21 Fund established under subpara-  
22 graph (J);

23 “(bb) temporary suspension  
24 from participation in the pro-  
25 gram described in subparagraph

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1 (E), which may be lifted by the  
2 Director if the individual or enti-  
3 ty cures the alleged violation  
4 after being provided such an op-  
5 portunity by the Director;

6 “(cc) permanent bar from  
7 participation in the program de-  
8 scribed in subparagraph (E) for  
9 1 or more individuals or business  
10 entities associated with the re-  
11 gional center, new commercial  
12 enterprise, or job-creating entity;  
13 and

14 “(dd) termination of re-  
15 gional center designation.

16 “(iv) AVAILABILITY OF ANNUAL  
17 STATEMENTS TO INVESTORS.—Not later  
18 than 30 days after a request from an alien  
19 investor, a regional center shall make  
20 available to such alien investor a copy of  
21 the filed annual statement and any amend-  
22 ments filed to such statement, which shall  
23 be redacted to exclude any information un-  
24 related to such alien investor or the new



1 commercial enterprise or job creating enti-  
2 ty into which the alien investor invested.

3 “(H) BONA FIDES OF PERSONS INVOLVED  
4 WITH REGIONAL CENTER PROGRAM.—

5 “(i) IN GENERAL.—The Secretary of  
6 Homeland Security may not permit any  
7 person to be involved with any regional  
8 center, new commercial enterprise, or job-  
9 creating entity if—

10 “(I) the person has been found to  
11 have committed—

12 “(aa) a criminal or civil of-  
13 fense involving fraud or deceit  
14 within the previous 10 years;

15 “(bb) a civil offense involv-  
16 ing fraud or deceit that resulted  
17 in a liability in excess of  
18 \$1,000,000; or

19 “(cc) a crime for which the  
20 person was convicted and sen-  
21 tenced to a term of imprisonment  
22 of more than 1 year;

23 “(II) the person is subject to a  
24 final order, for the duration of any  
25 penalty imposed by such order, of a

1 State securities commission (or an  
2 agency or officer of a State per-  
3 forming similar functions), a State  
4 authority that supervises or examines  
5 banks, savings associations, or credit  
6 unions, a State insurance commission  
7 (or an agency or officer of a State  
8 performing similar functions), an ap-  
9 propriate Federal banking agency, the  
10 Commodity Futures Trading Commis-  
11 sion, the Securities and Exchange  
12 Commission, a financial self-regu-  
13 latory organization recognized by the  
14 Securities and Exchange Commission,  
15 or the National Credit Union Admin-  
16 istration, which is based on a violation  
17 of any law or regulation that—

18 “(aa) prohibits fraudulent,  
19 manipulative, or deceptive con-  
20 duct; or

21 “(bb) bars the person  
22 from—

23 “(AA) association with  
24 an entity regulated by such

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1 commission, authority, agen-  
2 cy, or officer;

3 “(BB) appearing before  
4 such commission, authority,  
5 agency, or officer;

6 “(CC) engaging in the  
7 business of securities, insur-  
8 ance, or banking; or

9 “(DD) engaging in sav-  
10 ings association or credit  
11 union activities;

12 “(III) the Secretary determines  
13 that the person is engaged in, has  
14 ever been engaged in, or seeks to en-  
15 gage in—

16 “(aa) any illicit trafficking  
17 in any controlled substance or in  
18 any listed chemical (as defined in  
19 section 102 of the Controlled  
20 Substances Act);

21 “(bb) any activity relating to  
22 espionage, sabotage, or theft of  
23 intellectual property;

24 “(cc) any activity related to  
25 money laundering (as described

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1 in section 1956 or 1957 of title  
2 18, United States Code);

3 “(dd) any terrorist activity  
4 (as defined in section  
5 212(a)(3)(B));

6 “(ee) any activity consti-  
7 tuting or facilitating human traf-  
8 ficking or a human rights of-  
9 fense;

10 “(ff) any activity described  
11 in section 212(a)(3)(E); or

12 “(gg) the violation of any  
13 statute, regulation, or Executive  
14 order regarding foreign financial  
15 transactions or foreign asset con-  
16 trol; or

17 “(IV) the person—

18 “(aa) is, or during the pre-  
19 ceding 10 years has been, in-  
20 cluded on the Department of  
21 Justice’s List of Currently Dis-  
22 ciplined Practitioners; or

23 “(bb) during the preceding  
24 10 years, has received a rep-  
25 rimand or has otherwise been

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1 publicly disciplined for conduct  
2 related to fraud or deceit by a  
3 State bar association of which  
4 the person is or was a member.

5 “(ii) FOREIGN INVOLVEMENT IN RE-  
6 GIONAL CENTER PROGRAM.—

7 “(I) LAWFUL STATUS RE-  
8 QUIRED.—A person may not be in-  
9 volved with a regional center unless  
10 the person—

11 “(aa) is a national of the  
12 United States or an individual  
13 who has been lawfully admitted  
14 for permanent residence (as such  
15 terms are defined in paragraphs  
16 (20) and (22) of section 101(a));  
17 and

18 “(bb) is not the subject of  
19 rescission or removal pro-  
20 ceedings.

21 “(II) FOREIGN GOVERNMENTS.—  
22 No agency, official, or other similar  
23 entity or representative of a foreign  
24 government entity may provide capital  
25 to, or be directly or indirectly involved

1 with the ownership or administration  
2 of, a regional center, a new commer-  
3 cial enterprise, or a job-creating enti-  
4 ty, except that a foreign or domestic  
5 investment fund or other investment  
6 vehicle that is wholly or partially  
7 owned, directly or indirectly, by a  
8 bona fide foreign sovereign wealth  
9 fund or a foreign state-owned enter-  
10 prise otherwise permitted to do busi-  
11 ness in the United States may be in-  
12 volved with the ownership, but not the  
13 administration, of a job-creating enti-  
14 ty that is not an affiliated job-creating  
15 entity.

16 “(III) RULEMAKING.—Not later  
17 than 270 days after the date of the  
18 enactment of the EB–5 Reform and  
19 Integrity Act of 2022, the Secretary  
20 shall issue regulations implementing  
21 subparagraphs (I) and (II).

22 “(iii) INFORMATION REQUIRED.—The  
23 Secretary of Homeland Security—

24 “(I) shall require such attesta-  
25 tions and information, including the

1 submission of fingerprints or other  
2 biometrics to the Federal Bureau of  
3 Investigation with respect to a re-  
4 gional center, a new commercial enter-  
5 prise, and any affiliated job creating  
6 entity, and persons involved with such  
7 entities (as described in clause (v)), as  
8 may be necessary to determine wheth-  
9 er such entities are in compliance with  
10 clauses (i) and (ii);

11 “(II) shall perform such criminal  
12 record checks and other background  
13 and database checks with respect to a  
14 regional center, a new commercial en-  
15 terprise, and any affiliated job-cre-  
16 ating entity, and persons involved  
17 with such entities (as described in  
18 clause (v)), as may be necessary to de-  
19 termine whether such entities are in  
20 compliance with clauses (i) and (ii);  
21 and

22 “(III) may, at the Secretary’s  
23 discretion, require the information de-  
24 scribed to in subclause (I) and may  
25 perform the checks described in sub-

1 clause (II) with respect to any job cre-  
2 ating entity and persons involved with  
3 such entity if there is a reasonable  
4 basis to believe such entity or person  
5 is not in compliance with clauses (i)  
6 and (ii).

7 “(iv) TERMINATION.—

8 “(I) IN GENERAL.—The Sec-  
9 retary of Homeland Security may sus-  
10 pend or terminate the designation of  
11 any regional center, or the participa-  
12 tion under the program of any new  
13 commercial enterprise or job-creating  
14 entity under this paragraph if the  
15 Secretary determines that such enti-  
16 ty—

17 “(aa) knowingly involved a  
18 person with such entity in viola-  
19 tion of clause (i) or (ii) by fail-  
20 ing, within 14 days of acquiring  
21 such knowledge—

22 “(AA) to take commer-  
23 cially reasonable efforts to  
24 discontinue the prohibited  
25 person’s involvement; or



1 “(BB) to provide notice  
2 to the Secretary;

3 “(bb) failed to provide an  
4 attestation or information re-  
5 quested by the Secretary under  
6 clause (iii)(I); or

7 “(cc) knowingly provided  
8 any false attestation or informa-  
9 tion under clause (iii)(I).

10 “(II) LIMITATION.—The Sec-  
11 retary’s authorized sanctions under  
12 subclause (I) shall be limited to enti-  
13 ties that have engaged in any activity  
14 described in subclause (I).

15 “(III) INFORMATION.—

16 “(aa) NOTIFICATION.—The  
17 Secretary, after performing the  
18 criminal record checks and other  
19 background checks described in  
20 clause (iii), shall notify a regional  
21 center, new commercial enter-  
22 prise, or job-creating entity  
23 whether any person involved with  
24 such entities is not in compliance  
25 with clause (i) or (ii), unless the

1 information that provides the  
2 basis for the determination is  
3 classified or disclosure is other-  
4 wise prohibited under law.

5 “(bb) EFFECT OF FAILURE  
6 TO RESPOND.—If the regional  
7 center, new commercial enter-  
8 prise, or job-creating entity fails  
9 to discontinue the prohibited per-  
10 son’s involvement with the re-  
11 gional center, new commercial  
12 enterprise, or job-creating entity,  
13 as applicable, within 30 days  
14 after receiving such notification,  
15 such entity shall be deemed to  
16 have knowledge under subclause  
17 (I)(aa) that the involvement of  
18 such person with the entity is in  
19 violation of clause (i) or (ii).

20 “(v) PERSONS INVOLVED WITH A RE-  
21 GIONAL CENTER, NEW COMMERCIAL EN-  
22 TERPRISE, OR JOB-CREATING ENTITY.—  
23 For the purposes of this paragraph, unless  
24 otherwise determined by the Secretary of  
25 Homeland Security, a person is involved

1 with a regional center, a new commercial  
2 enterprise, any affiliated job-creating enti-  
3 ty, as applicable, if the person is, directly  
4 or indirectly, in a position of substantive  
5 authority to make operational or manage-  
6 rial decisions over pooling, securitization,  
7 investment, release, acceptance, or control  
8 or use of any funding that was procured  
9 under the program described in subpara-  
10 graph (E). An individual may be in a posi-  
11 tion of substantive authority if the person  
12 serves as a principal, a representative, an  
13 administrator, an owner, an officer, a  
14 board member, a manager, an executive, a  
15 general partner, a fiduciary, an agent, or  
16 in a similar position at the regional center,  
17 new commercial enterprise, or job-creating  
18 entity, respectively.

19 “(I) COMPLIANCE WITH SECURITIES  
20 LAWS.—

21 “(i) JURISDICTION.—

22 “(I) IN GENERAL.—The United  
23 States has jurisdiction, including sub-  
24 ject matter jurisdiction, over the pur-  
25 chase or sale of any security offered

1 or sold, or any investment advice pro-  
2 vided, by any regional center or any  
3 party associated with a regional cen-  
4 ter for purposes of the securities laws.

5 “(II) COMPLIANCE WITH REGU-  
6 LATION S.—For purposes of section 5  
7 of the Securities Act of 1933 (15  
8 U.S.C. 77e), a regional center or any  
9 party associated with a regional cen-  
10 ter is not precluded from offering or  
11 selling a security pursuant to Regula-  
12 tion S (17 C.F.R. 230.901 et seq.) to  
13 the extent that such offering or selling  
14 otherwise complies with that regula-  
15 tion.

16 “(III) SAVINGS PROVISION.—  
17 Subclause (I) is not intended to mod-  
18 ify any existing rules or regulations of  
19 the Securities and Exchange Commis-  
20 sion related to the application of sec-  
21 tion 15(a) of the Securities and Ex-  
22 change Act of 1934 (15 U.S.C.  
23 78o(a)) to foreign brokers or dealers.

24 “(ii) REGIONAL CENTER CERTIFI-  
25 CATIONS REQUIRED.—

1                   “(I) INITIAL CERTIFICATION.—

2                   The Secretary of Homeland Security  
3                   may not approve an application for re-  
4                   gional center designation or regional  
5                   center amendment unless the regional  
6                   center certifies that, to the best of the  
7                   certifier’s knowledge, after a due dili-  
8                   gence investigation, the regional cen-  
9                   ter is in compliance with and has poli-  
10                  cies and procedures, including those  
11                  related to internal and external due  
12                  diligence, reasonably designed to con-  
13                  firm, as applicable, that all parties as-  
14                  sociated with the regional center are  
15                  and will remain in compliance with  
16                  the securities laws of the United  
17                  States and of any State in which—

18                               “(aa) the offer, purchase, or  
19                               sale of securities was conducted;

20                               “(bb) the issuer of securities  
21                               was located; or

22                               “(cc) the investment advice  
23                               was provided by the regional cen-  
24                               ter or parties associated with the  
25                               regional center.

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1 “(II) REISSUE.—A regional cen-  
2 ter shall annually reissue a certifi-  
3 cation described in subclause (I), in  
4 accordance with subparagraph (G), to  
5 certify compliance with clause (iii) by  
6 stating that—

7 “(aa) the certification is  
8 made by a certifier;

9 “(bb) to the best of the cer-  
10 tifier’s knowledge, after a due  
11 diligence investigation, all such  
12 offers, purchases, and sales of se-  
13 curities or the provision of invest-  
14 ment advice complied with the se-  
15 curities laws of the United States  
16 and the securities laws of any  
17 State in which—

18 “(AA) the offer, pur-  
19 chase, or sale of securities  
20 was conducted;

21 “(BB) the issuer of se-  
22 curities was located; or

23 “(CC) the investment  
24 advice was provided; and

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1                   “(cc) records, data, and in-  
2                   formation related to such offers,  
3                   purchases, and sales have been  
4                   maintained.

5                   “(III) EFFECT OF NONCOMPLI-  
6                   ANCE.—If a regional center, through  
7                   its due diligence, discovered during  
8                   the previous fiscal year that the re-  
9                   gional center or any party associated  
10                  with the regional center was not in  
11                  compliance with the securities laws of  
12                  the United States or the securities  
13                  laws of any State in which the securi-  
14                  ties activities were conducted by any  
15                  party associated with the regional cen-  
16                  ter, the certifier shall—

17                   “(aa) describe the activities  
18                   that led to noncompliance;

19                   “(bb) describe the actions  
20                   taken to remedy the noncompli-  
21                   ance; and

22                   “(cc) certify that the re-  
23                   gional center and all parties asso-  
24                   ciated with the regional center  
25                   are currently in compliance, to

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1 the best of the certifier's knowl-  
2 edge, after a due diligence inves-  
3 tigation.

4 “(iii) OVERSIGHT REQUIRED.—Each  
5 regional center shall—

6 “(I) use commercially reasonable  
7 efforts to monitor and supervise com-  
8 pliance with the securities laws in re-  
9 lations to all offers, purchases, and  
10 sales of, and investment advice relat-  
11 ing to, securities made by parties as-  
12 sociated with the regional center;

13 “(II) maintain records, data, and  
14 information relating to all such offers,  
15 purchases, sales, and investment ad-  
16 vice during the 5-year period begin-  
17 ning on the date of their creation; and

18 “(III) make the records, data,  
19 and information described in sub-  
20 clause (II) available to the Secretary  
21 or to the Securities and Exchange  
22 Commission upon request.

23 “(iv) SUSPENSION OR TERMI-  
24 NATION.—In addition to any other author-  
25 ity provided to the Secretary under this



1 paragraph, the Secretary, in the Sec-  
2 retary's discretion, may suspend or termi-  
3 nate the designation of any regional center  
4 or impose other sanctions against the re-  
5 gional center if the regional center, or any  
6 parties associated with the regional center  
7 that the regional center knew or reason-  
8 ably should have known—

9 “(I) are permanently or tempo-  
10 rarily enjoined by order, judgment, or  
11 decree of any court of competent ju-  
12 risdiction in connection with the offer,  
13 purchase, or sale of a security or the  
14 provision of investment advice;

15 “(II) are subject to any final  
16 order of the Securities and Exchange  
17 Commission or a State securities reg-  
18 ulator that—

19 “(aa) bars such person from  
20 association with an entity regu-  
21 lated by the Securities and Ex-  
22 change Commission or a State  
23 securities regulator; or

24 “(bb) constitutes a final  
25 order based on a finding of an in-

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1           tentional violation or a violation  
2           related to fraud or deceit in con-  
3           nection with the offer, purchase,  
4           or sale of, or investment advice  
5           relating to, a security; or

6           “(III) submitted, or caused to be  
7           submitted, a certification described in  
8           clause (ii) that contained an untrue  
9           statement of a material fact or omit-  
10          ted to state a material fact necessary  
11          in order to make the statements  
12          made, in light of the circumstances  
13          under which they were made, not mis-  
14          leading.

15          “(v) DEFINED TERM.—In this sub-  
16          paragraph, the term ‘parties associated  
17          with a regional center’ means—

18                 “(I) the regional center;

19                 “(II) any new commercial enter-  
20                 prise or affiliated job-creating entity  
21                 or issuer of securities associated with  
22                 the regional center;

23                 “(III) the regional center’s and  
24                 new commercial enterprise’s owners,  
25                 officers, directors, managers, partners,

1 agents, employees, promoters and at-  
2 torneys, or similar position, as deter-  
3 mined by the Secretary; and

4 “(IV) any person under the con-  
5 trol of the regional center, new com-  
6 mercial enterprise, or issuer of securi-  
7 ties associated with the regional cen-  
8 ter who is responsible for the mar-  
9 keting, offering, or sale of any secu-  
10 rity offered in connection with the  
11 capital investment project.

12 “(vi) SAVINGS PROVISION.—Nothing  
13 in this subparagraph may be construed to  
14 impair or limit the authority of the Securi-  
15 ties and Exchange Commission under the  
16 Federal securities laws or any State securi-  
17 ties regulator under State securities laws.  
18 “(J) EB–5 INTEGRITY FUND.—

19 “(i) ESTABLISHMENT.—There is es-  
20 tablished in the United States Treasury a  
21 special fund, which shall be known as the  
22 ‘EB–5 Integrity Fund’ (referred to in this  
23 subparagraph as the ‘Fund’). Amounts de-  
24 posited into the Fund shall be available to  
25 the Secretary of Homeland Security until

1 expended for the purposes set forth in  
2 clause (iii).

3 “(ii) FEES.—

4 “(I) ANNUAL FEE.—On October  
5 1, 2022, and each October 1 there-  
6 after, the Secretary of Homeland Se-  
7 curity shall collect for the Fund an  
8 annual fee—

9 “(aa) except as provided in  
10 item (bb), of \$20,000 from each  
11 regional center designated under  
12 subparagraph (E); and

13 “(bb) of \$10,000 from each  
14 such regional center with 20 or  
15 fewer total investors in the pre-  
16 ceding fiscal year in its new com-  
17 mercial enterprises.

18 “(II) PETITION FEE.—Beginning  
19 on October 1, 2022, the Secretary  
20 shall collect a fee of \$1,000 for the  
21 Fund with each petition filed under  
22 section 204(a)(1)(H) for classification  
23 under subparagraph (E). The fee  
24 under this subclause is in addition to  
25 the fee that the Secretary is author-

1            ized to establish and collect for each  
2            petition to recover the costs of adju-  
3            dication and naturalization services  
4            under section 286(m).

5            “(III) INCREASES.—The Sec-  
6            retary may increase the amounts  
7            under this clause by prescribing such  
8            regulations as may be necessary to en-  
9            sure that amounts in the Fund are  
10           sufficient to carry out the purposes  
11           set forth in clause (iii).

12           “(iii) PERMISSIBLE USES OF FUND.—  
13           The Secretary shall—

14           “(I) use not less than  $\frac{1}{3}$  of the  
15           amounts deposited into the Fund for  
16           investigations based outside of the  
17           United States, including—

18           “(aa) monitoring and inves-  
19           tigating program-related events  
20           and promotional activities; and

21           “(bb) ensuring an alien in-  
22           vestor’s compliance with subpara-  
23           graph (L); and

24           “(II) use amounts deposited into  
25           the Fund—

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1                   “(aa) to detect and inves-  
2                   tigate fraud or other crimes;

3                   “(bb) to determine whether  
4                   regional centers, new commercial  
5                   enterprises, job-creating entities,  
6                   and alien investors (and their  
7                   alien spouses and alien children)  
8                   comply with the immigration  
9                   laws;

10                  “(cc) to conduct audits and  
11                  site visits; and

12                  “(dd) as the Secretary de-  
13                  termines to be necessary, includ-  
14                  ing monitoring compliance with  
15                  the requirements under section  
16                  107 of the EB–5 Reform and In-  
17                  tegrity Act of 2022.

18                  “(iv) FAILURE TO PAY FEE.—The  
19                  Secretary of Homeland Security shall—

20                  “(I) impose a reasonable penalty,  
21                  which shall be deposited into the  
22                  Fund, if any regional center does not  
23                  pay the fee required under clause (ii)  
24                  within 30 days after the date on  
25                  which such fee is due; and

1                   “(II) terminate the designation  
2                   of any regional center that does not  
3                   pay the fee required under clause (ii)  
4                   within 90 days after the date on  
5                   which such fee is due.

6                   “(v) REPORT.—The Secretary shall  
7                   submit an annual report to the Committee  
8                   on the Judiciary of the Senate and the  
9                   Committee on the Judiciary of the House  
10                  of Representatives that describes how  
11                  amounts in the Fund were expended dur-  
12                  ing the previous fiscal year.

13                  “(K) DIRECT AND THIRD-PARTY PRO-  
14                  MOTERS.—

15                  “(i) RULES AND STANDARDS.—Direct  
16                  and third-party promoters (including mi-  
17                  gration agents) of a regional center, any  
18                  new commercial enterprise, an affiliated  
19                  job-creating entity, or an issuer of securi-  
20                  ties intended to be offered to alien inves-  
21                  tors in connection with a particular capital  
22                  investment project shall comply with the  
23                  rules and standards prescribed by the Sec-  
24                  retary of Homeland Security and any ap-  
25                  plicable Federal or State securities laws, to

1           oversee promotion of any offering of secu-  
2           rities related to the EB-5 Program, in-  
3           cluding—

4                   “(I) registration with U.S. Citi-  
5                   zenship and Immigration Services,  
6                   which—

7                           “(aa) includes identifying  
8                           and contact information for such  
9                           promoter and confirmation of the  
10                          existence of the written agree-  
11                          ment required under clause (iii);  
12                          and

13                           “(bb) may be made publicly  
14                          available at the discretion of the  
15                          Secretary;

16                          “(II) certification by each pro-  
17                          moter that such promoter is not ineli-  
18                          gible under subparagraph (H)(i);

19                          “(III) guidelines for accurately  
20                          representing the visa process to for-  
21                          eign investors; and

22                          “(IV) guidelines describing per-  
23                          missible fee arrangements under ap-  
24                          plicable securities and immigration  
25                          laws.



1                   “(ii) EFFECT OF VIOLATION.—If the  
2                   Secretary determines that a direct or  
3                   third-party promoter has violated clause  
4                   (i), the Secretary shall suspend or perma-  
5                   nently bar such individual from participa-  
6                   tion in the program described in subpara-  
7                   graph (E).

8                   “(iii) COMPLIANCE.—Each regional  
9                   center, new commercial enterprise, and af-  
10                  filiated job-creating entity shall maintain a  
11                  written agreement between or among such  
12                  entities and each direct or third-party pro-  
13                  moter operating on behalf of such entities  
14                  that outlines the rules and standards pre-  
15                  scribed under clause (i).

16                  “(iv) DISCLOSURE.—Each petition  
17                  filed under section 204(a)(1)(H) shall in-  
18                  clude a disclosure, signed by the investor,  
19                  that reflects all fees, ongoing interest, and  
20                  other compensation paid to any person  
21                  that the regional center or new commercial  
22                  enterprise knows has received, or will re-  
23                  ceive, in connection with the investment,  
24                  including compensation to agents, finders,  
25                  or broker dealers involved in the offering,

1 to the extent not already specifically identi-  
2 fied in the business plan filed under sub-  
3 paragraph (F).

4 “(L) SOURCE OF FUNDS.—

5 “(i) IN GENERAL.—An alien investor  
6 shall demonstrate that the capital required  
7 under subparagraph (A) and any funds  
8 used to pay administrative costs and fees  
9 associated with the alien’s investment were  
10 obtained from a lawful source and through  
11 lawful means.

12 “(ii) REQUIRED INFORMATION.—The  
13 Secretary of Homeland Security shall re-  
14 quire that an alien investor’s petition  
15 under this paragraph contain, as applica-  
16 ble—

17 “(I) business and tax records, or  
18 similar records, including—

19 “(aa) foreign business reg-  
20 istration records;

21 “(bb) corporate or partner-  
22 ship tax returns (or tax returns  
23 of any other entity in any form  
24 filed in any country or subdivi-  
25 sion of such country), and per-

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1           sonal tax returns, including in-  
2           come, franchise, property (wheth-  
3           er real, personal, or intangible),  
4           or any other tax returns of any  
5           kind, filed during the past 7  
6           years (or another period to be de-  
7           termined by the Secretary to en-  
8           sure that the investment is ob-  
9           tained from a lawful source of  
10          funds) with any taxing jurisdic-  
11          tion within or outside the United  
12          States by or on behalf of the  
13          alien investor; and

14               “(cc) any other evidence  
15               identifying any other source of  
16               capital or administrative fees;

17               “(II) evidence related to mone-  
18               tary judgments against the alien in-  
19               vestor, including certified copies of  
20               any judgments, and evidence of all  
21               pending governmental civil or criminal  
22               actions, governmental administrative  
23               proceedings, and any private civil ac-  
24               tions (pending or otherwise) involving  
25               possible monetary judgments against

1 the alien investor from any court  
2 within or outside the United States;  
3 and

4 “(III) the identity of all persons  
5 who transfer into the United States,  
6 on behalf of the investor, any funds  
7 that are used to meet the capital re-  
8 quirement under subparagraph (A).

9 “(iii) GIFT AND LOAN RESTRIC-  
10 TIONS.—

11 “(I) IN GENERAL.—Gifted and  
12 borrowed funds may not be counted  
13 toward the minimum capital invest-  
14 ment requirement under subpara-  
15 graph (C) unless such funds—

16 “(aa) were gifted or loaned  
17 to the alien investor in good  
18 faith; and

19 “(bb) were not gifted or  
20 loaned to circumvent any limita-  
21 tions imposed on permissible  
22 sources of capital under this sub-  
23 paragraph, including but not lim-  
24 ited to proceeds from illegal ac-  
25 tivity.

1 “(II) RECORDS REQUIREMENT.—

2 If funds invested under subparagraph  
3 (A) are gifted or loaned to the alien  
4 investor, the Secretary shall require  
5 that the alien investor’s petition under  
6 this paragraph includes the records  
7 described in subclauses (I) and (II) of  
8 clause (ii) from the donor or, if other  
9 than a bank, the lender.

10 “(M) TREATMENT OF GOOD FAITH INVES-  
11 TORS FOLLOWING PROGRAM NONCOMPLI-  
12 ANCE.—

13 “(i) TERMINATION OR DEBARMENT  
14 OF EB-5 ENTITY.—Except as provided in  
15 clause (vi), upon the termination or debar-  
16 ment, as applicable, from the program  
17 under this paragraph of a regional center,  
18 a new commercial enterprise, or a job-cre-  
19 ating entity—

20 “(I) an otherwise qualified peti-  
21 tion under section 204(a)(1)(H) or  
22 the conditional permanent residence of  
23 an alien who has been admitted to the  
24 United States pursuant to section  
25 216A(a)(1) based on an investment in

1 a terminated regional center, new  
2 commercial enterprise, or job-creating  
3 entity shall remain valid or continue  
4 to be authorized, as applicable, con-  
5 sistent with this subparagraph; and

6 “(II) the Secretary of Homeland  
7 Security shall notify the alien bene-  
8 ficiaries of such petitions of such ter-  
9 mination or debarment.

10 “(ii) NEW REGIONAL CENTER OR IN-  
11 VESTMENT.—The petition under section  
12 204(a)(1)(H) of an alien described in  
13 clause (i) and the conditional permanent  
14 resident status of an alien described in  
15 clause (i) shall be terminated 180 days  
16 after notification of the termination from  
17 the program under this paragraph of a re-  
18 gional center, a new commercial enterprise,  
19 or a job creating entity (but not sooner  
20 than 180 days after the date of the enact-  
21 ment of the EB–5 Reform and Integrity  
22 Act of 2022) unless—

23 “(I) in the case of the termi-  
24 nation of a regional center—

1           “(aa) the new commercial  
2           enterprise associates with an ap-  
3           proved regional center, regardless  
4           of the approved geographical  
5           boundaries of such regional cen-  
6           ter’s designation; or

7           “(bb) such alien makes a  
8           qualifying investment in another  
9           new commercial enterprise; or

10          “(II) in the case of the debar-  
11          ment of a new commercial enterprise  
12          or job-creating entity, such alien—

13               “(aa) associates with a new  
14               commercial enterprise in good  
15               standing; and

16               “(bb) invests additional in-  
17               vestment capital solely to the ex-  
18               tent necessary to satisfy remain-  
19               ing job creation requirements  
20               under subparagraph (A)(ii).

21          “(iii) AMENDMENTS.—

22               “(I) FILING REQUIREMENT.—  
23          The Secretary shall permit a petition  
24          described in clause (i)(I) to be amend-  
25          ed to allow such petition to meet the

1 applicable eligibility requirements  
2 under clause (ii), or to notify the Sec-  
3 retary that a pending or approved pe-  
4 tition continues to meet the eligibility  
5 requirements described in clause (ii)  
6 notwithstanding termination or debar-  
7 ment described in clause (i) if such  
8 amendment is filed not later than 180  
9 days after the Secretary provides noti-  
10 fication of termination or debarment  
11 of a regional center, a new commercial  
12 enterprise, or a job-creating entity, as  
13 applicable.

14 “(II) DETERMINATION OF ELIGI-  
15 BILITY.—For purposes of determining  
16 eligibility under subclause (I)—

17 “(aa) the Secretary shall  
18 permit amendments to the busi-  
19 ness plan, without such facts un-  
20 derlying the amendment being  
21 deemed a material change; and

22 “(bb) may deem any funds  
23 obtained or recovered by an alien  
24 investor, directly or indirectly,  
25 from claims against third parties,



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1 including insurance proceeds, or  
2 any additional investment capital  
3 provided by the alien, to be such  
4 alien's investment capital for the  
5 purposes of subparagraph (A) if  
6 such investment otherwise com-  
7 plies with the requirements under  
8 this paragraph and section 216A.

9 “(iv) REMOVAL OF CONDITIONS.—  
10 Aliens described in subclauses (I)(bb) and  
11 (II) of clause (ii) shall be eligible to have  
12 their conditions removed pursuant to sec-  
13 tion 216A beginning on the date that is 2  
14 years after the date of the subsequent in-  
15 vestment.

16 “(v) REMEDIES.—For petitions ap-  
17 proved under clause (ii), including fol-  
18 lowing an amendment filed under clause  
19 (iii), the Secretary—

20 “(I) shall retain the immigrant  
21 visa priority date related to the origi-  
22 nal petition and prevent age-out of de-  
23 rivative beneficiaries; and

1 “(II) may hold such petition in  
2 abeyance and extend any applicable  
3 deadlines under this paragraph.

4 “(vi) EXCEPTION.—If the Secretary  
5 has reason to believe that an alien was a  
6 knowing participant in the conduct that led  
7 to the termination of a regional center,  
8 new commercial enterprise, or job-creating  
9 entity described in clause (i)—

10 “(I) the alien shall not be ac-  
11 corded any benefit under this sub-  
12 paragraph; and

13 “(II) the Secretary shall—

14 “(aa) notify the alien of  
15 such belief; and

16 “(bb) subject to section  
17 216A(b)(2), shall deny or initiate  
18 proceedings to revoke the ap-  
19 proval of such alien’s petition,  
20 application, or benefit (and that  
21 of any spouse or child, if applica-  
22 ble) described in this paragraph.

23 “(N) THREATS TO THE NATIONAL INTER-  
24 EST.—

1                   “(i) DENIAL OR REVOCATION.—The  
2                   Secretary of Homeland Security shall deny  
3                   or revoke the approval of a petition, appli-  
4                   cation, or benefit described in this para-  
5                   graph, including the documents described  
6                   in clause (ii), if the Secretary determines,  
7                   in the Secretary’s discretion, that the ap-  
8                   proval of such petition, application, or ben-  
9                   efit is contrary to the national interest of  
10                  the United States for reasons relating to  
11                  threats to public safety or national secu-  
12                  rity.

13                  “(ii) DOCUMENTS.—The documents  
14                  described in this clause are—

15                         “(I) a certification, designation,  
16                         or amendment to the designation of a  
17                         regional center;

18                         “(II) a petition seeking classifica-  
19                         tion of an alien as an alien investor  
20                         under this paragraph;

21                         “(III) a petition to remove condi-  
22                         tions under section 216A;

23                         “(IV) an application for approval  
24                         of a business plan in a new commer-

1                   cial enterprise under subparagraph  
2                   (F); or

3                   “(V) a document evidencing con-  
4                   ditional permanent resident status  
5                   that was issued to an alien pursuant  
6                   to section 216A.

7                   “(iii) DEBARMENT.—If a regional  
8                   center, new commercial enterprise, or job-  
9                   creating entity has its designation or par-  
10                  ticipation in the program under this para-  
11                  graph terminated for reasons relating to  
12                  public safety or national security, any per-  
13                  son associated with such regional center,  
14                  new commercial enterprise, or job-creating  
15                  entity, including an alien investor, shall be  
16                  permanently barred from future participa-  
17                  tion in the program under this paragraph  
18                  if the Secretary of Homeland Security, in  
19                  the Secretary’s discretion, determines, by a  
20                  preponderance of the evidence, that such  
21                  person was a knowing participant in the  
22                  conduct that led to the termination.

23                  “(iv) NOTICE.—If the Secretary of  
24                  Homeland Security determines that the ap-  
25                  proval of a petition, application, or benefit

1 described in this paragraph should be de-  
2 nied or revoked pursuant to clause (i), the  
3 Secretary shall—

4 “(I) notify the relevant indi-  
5 vidual, regional center, or commercial  
6 entity of such determination;

7 “(II) deny or revoke such peti-  
8 tion, application, or benefit or termi-  
9 nate the permanent resident status of  
10 the alien (and the alien spouse and  
11 alien children of such immigrant), as  
12 of the date of such determination; and

13 “(III) provide any United States-  
14 owned regional center, new commer-  
15 cial enterprise, or job creating entity  
16 an explanation for such determination  
17 unless the relevant information is  
18 classified or disclosure is otherwise  
19 prohibited under law.

20 “(v) JUDICIAL REVIEW.—Notwith-  
21 standing any other provision of law (statu-  
22 tory or nonstatutory), including section  
23 2241 of title 28, United States Code, or  
24 any other habeas corpus provision, and  
25 sections 1361 and 1651 of such title, no

1 court shall have jurisdiction to review a de-  
2 nial or revocation under this subparagraph.  
3 Nothing in this clause may be construed as  
4 precluding review of constitutional claims  
5 or questions of law raised upon a petition  
6 for review filed with an appropriate court  
7 of appeals in accordance with section 242.

8 “(O) FRAUD, MISREPRESENTATION, AND  
9 CRIMINAL MISUSE.—

10 “(i) DENIAL OR REVOCATION.—Sub-  
11 ject to subparagraph (M), the Secretary of  
12 Homeland Security shall deny or revoke  
13 the approval of a petition, application, or  
14 benefit described in this paragraph, includ-  
15 ing the documents described in subpara-  
16 graph (N)(ii), if the Secretary determines,  
17 in the Secretary’s discretion, that such pe-  
18 tition, application, or benefit was predi-  
19 cated on or involved fraud, deceit, inten-  
20 tional material misrepresentation, or crimi-  
21 nal misuse.

22 “(ii) DEBARMENT.—If a regional cen-  
23 ter, new commercial enterprise, or job-cre-  
24 ating entity has its designation or partici-  
25 pation in the program under this para-

1 graph terminated for reasons relating to  
2 fraud, intentional material misrepresenta-  
3 tion, or criminal misuse, any person associ-  
4 ated with such regional center, new com-  
5 mercial enterprise, or job-creating entity,  
6 including an alien investor, shall be perma-  
7 nently barred from future participation in  
8 the program if the Secretary determines,  
9 in the Secretary's discretion, by a prepon-  
10 derance of the evidence, that such person  
11 was a knowing participant in the conduct  
12 that led to the termination.

13 “(iii) NOTICE.—If the Secretary de-  
14 termines that the approval of a petition,  
15 application, or benefit described in this  
16 paragraph should be denied or revoked  
17 pursuant to clause (i), the Secretary  
18 shall—

19 “(I) notify the relevant indi-  
20 vidual, regional center, or commercial  
21 entity of such determination; and

22 “(II) deny or revoke such peti-  
23 tion, application, or benefit or termi-  
24 nate the permanent resident status of  
25 the alien (and the alien spouse and

1 alien children of such immigrant), in  
2 accordance with clause (i), as of the  
3 date of such determination.

4 “(P) ADMINISTRATIVE APPELLATE RE-  
5 VIEW.—

6 “(i) IN GENERAL.—The Director of  
7 U.S. Citizenship and Immigration Services  
8 shall provide an opportunity for an admin-  
9 istrative appellate review by the Adminis-  
10 trative Appeals Office of U.S. Citizenship  
11 and Immigration Services of any deter-  
12 mination made under this paragraph, in-  
13 cluding—

14 “(I) an application for regional  
15 center designation or regional center  
16 amendment;

17 “(II) an application for approval  
18 of a business plan filed under sub-  
19 paragraph (F);

20 “(III) a petition by an alien in-  
21 vestor for status as an immigrant  
22 under this paragraph;

23 “(IV) the termination or suspen-  
24 sion of any benefit accorded under  
25 this paragraph; and



1                   “(V) any sanction imposed by the  
2                   Secretary under this paragraph.

3                   “(ii) JUDICIAL REVIEW.—Subject to  
4                   subparagraph (N)(v) and section  
5                   242(a)(2), and notwithstanding any other  
6                   provision of law (statutory or nonstatu-  
7                   tory), including section 2241 of title 28,  
8                   United States Code, or any other habeas  
9                   corpus provision, and sections 1361 and  
10                  1651 of such title, no court shall have ju-  
11                  risdiction to review a determination under  
12                  this paragraph until the regional center, its  
13                  associated entities, or the alien investor  
14                  has exhausted all administrative appeals.

15                  “(Q) FUND ADMINISTRATION.—

16                  “(i) IN GENERAL.—Each new com-  
17                  mercial enterprise shall deposit and main-  
18                  tain the capital investment of each alien  
19                  investor in a separate account, including  
20                  amounts held in escrow.

21                  “(ii) USE OF FUNDS.—Amounts in a  
22                  separate account may only—

23                         “(I) be transferred to another  
24                         separate account or a job creating en-  
25                         tity;

1                   “(II) otherwise be deployed into  
2                   the capital investment project for  
3                   which the funds were intended; or

4                   “(III) be transferred to the alien  
5                   investor who contributed the funds as  
6                   a refund of that investor’s capital in-  
7                   vestment, if otherwise permitted  
8                   under this paragraph.

9                   “(iii) DEPLOYMENT OF FUNDS INTO  
10                  AN AFFILIATED JOB-CREATING ENTITY.—  
11                  If amounts are transferred to an affiliated  
12                  job-creating entity pursuant to clause  
13                  (ii)(I)—

14                   “(I) the affiliated job-creating  
15                   entity shall maintain such amounts in  
16                   a separate account until they are de-  
17                   ployed into the capital investment  
18                   project for which they were intended;  
19                   and

20                   “(II) not later than 30 days after  
21                   such amounts are deployed pursuant  
22                   to subclause (I), the affiliated job-cre-  
23                   ating entity shall provide written no-  
24                   tice to the fund administrator re-  
25                   tained pursuant to clause (iv) that a

1 construction consultant or other indi-  
2 vidual authorized by the Secretary has  
3 verified that such amounts have been  
4 deployed into the project.

5 “(iv) FUND ADMINISTRATOR.—Except  
6 as provided in clause (v), the new commer-  
7 cial enterprise shall retain a fund adminis-  
8 trator to fulfill the requirements under this  
9 subparagraph. The fund administrator—

10 “(I) shall be independent of, and  
11 not directly related to, the new com-  
12 mercial enterprise, the regional center  
13 associated with the new commercial  
14 enterprise, the job creating entity, or  
15 any of the principals or managers of  
16 such entities;

17 “(II) shall be licensed, active,  
18 and in good standing as—

19 “(aa) a certified public ac-  
20 countant;

21 “(bb) an attorney;

22 “(cc) a broker-dealer or in-  
23 vestment adviser registered with  
24 the Securities and Exchange  
25 Commission; or

1                   “(dd) an individual or com-  
2                   pany that otherwise meets such  
3                   requirements as may be estab-  
4                   lished by the Secretary;

5                   “(III) shall monitor and track  
6                   any transfer of amounts from the sep-  
7                   arate account;

8                   “(IV) shall serve as a cosignatory  
9                   on all separate accounts;

10                  “(V) before any transfer of  
11                  amounts from a separate account,  
12                  shall—

13                         “(aa) verify that the trans-  
14                         fer complies with all governing  
15                         documents, including organiza-  
16                         tional, operational, and invest-  
17                         ment documents; and

18                         “(bb) approve such transfer  
19                         with a written or electronic sig-  
20                         nature;

21                         “(VI) shall periodically provide  
22                         each alien investor with information  
23                         about the activity of the account in  
24                         which the investor’s capital invest-  
25                         ment is held, including—

1                   “(aa) the name and location  
2                   of the bank or financial institu-  
3                   tion at which the account is  
4                   maintained;

5                   “(bb) the history of the ac-  
6                   count; and

7                   “(cc) any additional infor-  
8                   mation required by the Secretary;  
9                   and

10                  “(VII) shall make and preserve,  
11                  during the 5-year period beginning on  
12                  the last day of the Federal fiscal year  
13                  in which any transactions occurred,  
14                  books, ledgers, records, and other doc-  
15                  umentation necessary to comply with  
16                  this clause, which shall be provided to  
17                  the Secretary upon request.

18                  “(v) WAIVER.—

19                  “(I) WAIVER PERMITTED.—The  
20                  Secretary of Homeland Security, after  
21                  consultation with the Securities and  
22                  Exchange Commission, may waive the  
23                  requirements under clause (iv) for any  
24                  new commercial enterprise or affili-  
25                  ated job-creating entity that is con-

1                   trolled by or under common control of  
2                   an investment adviser or broker-dealer  
3                   that is registered with the Securities  
4                   and Exchange Commission if the Sec-  
5                   retary, in the Secretary's discretion,  
6                   determines that the Securities and  
7                   Exchange Commission provides com-  
8                   parable protections and transparency  
9                   for alien investors as the protections  
10                  and transparency provided under  
11                  clause (iv).

12                   “(II) WAIVER REQUIRED.—The  
13                  Secretary of Homeland Security shall  
14                  waive the requirements under clause  
15                  (iv) for any new commercial enterprise  
16                  that commissions an annual inde-  
17                  pendent financial audit of such new  
18                  commercial enterprise or job creating  
19                  entity conducted in accordance with  
20                  Generally Accepted Auditing Stand-  
21                  ards, which audit shall be provided to  
22                  the Secretary and all investors in the  
23                  new commercial enterprise.

1                   “(vi) DEFINED TERM.—In this sub-  
2                   paragraph, the term ‘separate account’  
3                   means an account that—

4                   “(I) is maintained in the United  
5                   States by a new commercial enterprise  
6                   or job creating entity at a federally  
7                   regulated bank or at another financial  
8                   institution (as defined in section 20 of  
9                   title 18, United States Code) in the  
10                  United States;

11                  “(II) is insured; and

12                  “(III) contains only the pooled  
13                  investment funds of alien investors in  
14                  a new commercial enterprise with re-  
15                  spect to a single capital investment  
16                  project.”.

17                  (2) EFFECTIVE DATE.—The amendment made  
18                  by this subsection shall take effect on the date that  
19                  is 60 days after the date of the enactment of this  
20                  Act.

21                  (c) REQUIRED CHECKS.—

22                  (1) IN GENERAL.—Section 203(b)(5) of the Im-  
23                  migration and Nationality Act (8 U.S.C.  
24                  1153(b)(5)), as amended by subsection (b), is fur-  
25                  ther amended by adding at the end the following:

1           “(R) REQUIRED CHECKS.—Any petition  
2           filed by an alien under section 204(a)(1)(H)  
3           may not be approved under this paragraph un-  
4           less the Secretary of Homeland Security has  
5           searched for the alien and any associated em-  
6           ployer of such alien on the Specially Designated  
7           Nationals List of the Department of the Treas-  
8           ury Office of Foreign Assets Control.”.

9           (2) EFFECTIVE DATE.—The amendment made  
10          by this subsection shall take effect on the date of the  
11          enactment of this Act.

12   **SEC. 104. CONDITIONAL PERMANENT RESIDENT STATUS**  
13                   **FOR ALIEN INVESTORS, SPOUSES, AND CHIL-**  
14                   **DREN.**

15          (a) IN GENERAL.—Section 216A of the Immigration  
16          and Nationality Act (8 U.S.C. 1186b) is amended—

17               (1) by striking “Attorney General” each place  
18               such term appears (except in subsection (d)(2)(C))  
19               and inserting “Secretary of Homeland Security”;

20               (2) by striking “entrepreneur” each place such  
21               term appears and inserting “investor”;

22               (3) in subsection (a), by amending paragraph  
23          (1) to read as follows:

24               “(1) CONDITIONAL BASIS FOR STATUS.—An  
25          alien investor, alien spouse, and alien child shall be



1       considered, at the time of obtaining status as an  
2       alien lawfully admitted for permanent residence, to  
3       have obtained such status on a conditional basis sub-  
4       ject to the provisions of this section.”;

5           (4) in subsection (b)—

6               (A) in the subsection heading, by striking  
7               “ENTREPRENEURSHIP” and inserting “INVEST-  
8               MENT”; and

9               (B) by amending paragraph (1)(B) to read  
10       as follows:

11               “(B) the alien did not invest the requisite  
12       capital; or”;

13           (5) in subsection (c)—

14               (A) in the subsection heading, by striking  
15               “OF TIMELY PETITION AND INTERVIEW”;

16               (B) in paragraph (1)—

17                   (i) in the matter preceding subpara-  
18                   graph (A), by striking “In order” and in-  
19                   serting “Except as provided in paragraph  
20                   (3)(D), in order”;

21                   (ii) in subparagraph (A)—

22                           (I) by striking “must” and in-  
23                           serting “shall”; and

24                           (II) by striking “, and” and in-  
25                           serting a semicolon;

1 (iii) in subparagraph (B)—

2 (I) by striking “must” and in-  
3 serting “shall”;

4 (II) by striking “Service” and in-  
5 serting “Department of Homeland Se-  
6 curity”; and

7 (III) by striking the period at the  
8 end and inserting “; and”; and

9 (iv) by adding at the end the fol-  
10 lowing:

11 “(C) the Secretary shall have performed a  
12 site visit to the relevant corporate office or busi-  
13 ness location described in section  
14 203(b)(5)(F)(iv).”; and

15 (C) in paragraph (3)—

16 (i) in subparagraph (A), in the undes-  
17 ignated matter following clause (ii), by  
18 striking “the” before “such filing”; and

19 (ii) by amending subparagraph (B) to  
20 read as follows:

21 “(B) REMOVAL OR EXTENSION OF CONDI-  
22 TIONAL BASIS.—

23 “(i) IN GENERAL.—Except as pro-  
24 vided in clause (ii), if the Secretary deter-  
25 mines that the facts and information con-

1           tained in a petition submitted under para-  
2           graph (1)(A) are true, including dem-  
3           onstrating that the alien complied with  
4           subsection (d)(1)(B)(i), the Secretary  
5           shall—

6                   “(I) notify the alien involved of  
7                   such determination; and

8                   “(II) remove the conditional  
9                   basis of the alien’s status effective as  
10                  of the second anniversary of the  
11                  alien’s lawful admission for permanent  
12                  residence.

13                  “(ii) EXCEPTION.—If the petition  
14                  demonstrates that the facts and informa-  
15                  tion are true and that the alien is in com-  
16                  pliance with subsection (d)(1)(B)(ii)—

17                   “(I) the Secretary, in the Sec-  
18                   retary’s discretion, may provide a 1-  
19                   year extension of the alien’s condi-  
20                   tional status; and

21                   “(II)(aa) if the alien files a peti-  
22                   tion not later than 30 days after the  
23                   third anniversary of the alien’s lawful  
24                   admission for permanent residence  
25                   demonstrating that the alien complied

1 with subsection (d)(1)(B)(i), the Sec-  
2 retary shall remove the conditional  
3 basis of the alien's status effective as  
4 of such third anniversary; or

5 “(bb) if the alien does not file the  
6 petition described in item (aa), the  
7 conditional status shall terminate at  
8 the end of such additional year.”;

9 (6) in subsection (d)—

10 (A) in paragraph (1)—

11 (i) by amending subparagraph (A) to  
12 read as follows:

13 “(A) invested the requisite capital;”;

14 (ii) by redesignating subparagraph  
15 (B) as subparagraph (C); and

16 (iii) by inserting after subparagraph  
17 (A) the following:

18 “(B)(i) created the employment required  
19 under section 203(b)(5)(A)(ii); or

20 “(ii) is actively in the process of creating  
21 the employment required under section  
22 203(b)(5)(A)(ii) and will create such employ-  
23 ment before the third anniversary of the alien's  
24 lawful admission for permanent residence, pro-

1           vided that such alien’s capital will remain in-  
2           vested during such time; and”;

3           (B) in paragraph (2), by amending sub-  
4           paragraph (A) to read as follows:

5           “(A) NINETY-DAY PERIOD BEFORE SEC-  
6           OND ANNIVERSARY.—

7           “(i) IN GENERAL.—Except as pro-  
8           vided in clause (ii) and subparagraph (B),  
9           a petition under subsection (c)(1)(A) shall  
10          be filed during the 90-day period imme-  
11          diately preceding the second anniversary of  
12          the alien investor’s lawful admission for  
13          permanent residence.

14          “(ii) EXCEPTION.—Aliens described in  
15          subclauses (I)(bb) and (II) of section  
16          203(b)(5)(M)(ii) shall file a petition under  
17          subsection (c)(1)(A) during the 90-day pe-  
18          riod before the second anniversary of the  
19          subsequent investment.”; and

20          (C) in paragraph (3)—

21               (i) by striking “The interview” and  
22               inserting the following:

23               “(A) IN GENERAL.—The interview”;

1 (ii) by striking “Service” and insert-  
2 ing “Department of Homeland Security”;  
3 and

4 (iii) by striking the last sentence and  
5 inserting the following:

6 “(B) WAIVER.—The Secretary of Home-  
7 land Security, in the Secretary’s discretion, may  
8 waive the deadline for an interview under sub-  
9 section (c)(1)(B) or the requirement for such  
10 an interview according to criteria developed by  
11 U.S. Citizenship and Immigration Services, in  
12 consultation with its Fraud Detection and Na-  
13 tional Security Directorate and U.S. Immigra-  
14 tion and Customs Enforcement, provided that  
15 such criteria do not include a reduction of case  
16 processing times or the allocation of adjudica-  
17 tory resources. A waiver may not be granted  
18 under this subparagraph if the alien to be inter-  
19 viewed—

20 “(i) invested in a regional center, new  
21 commercial enterprise, or job-creating enti-  
22 ty that was sanctioned under section  
23 203(b)(5); or

1 “(ii) is in a class of aliens determined  
2 by the Secretary to be threats to public  
3 safety or national security.”; and

4 (7) in subsection (f)(3), by striking “a limited  
5 partnership” and inserting “any entity formed for  
6 the purpose of doing for-profit business”.

7 (b) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the amendments made by subsection (a)  
10 shall take effect on the date of the enactment of this  
11 Act.

12 (2) EXCEPTIONS.—

13 (A) SITE VISITS.—The amendment made  
14 by subsection (a)(5)(B)(iv) shall take effect on  
15 the date that is 2 years after the date of the  
16 enactment of this Act.

17 (B) PETITION BENEFICIARIES.—The  
18 amendments made by subsection (a) shall not  
19 apply to the beneficiary of a petition that is  
20 filed under section 216A of the Immigration  
21 and Nationality Act (8 U.S.C. 1186b) if the un-  
22 derlying petition was filed under section  
23 203(b)(5) of such Act (8 U.S.C. 1153(b)(5))  
24 before the date of the enactment of this Act.

1   **SEC. 105. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

2       (a) **FILING ORDER AND ELIGIBILITY.**—Section  
3   204(a)(1)(H) of the Immigration and Nationality Act (8  
4   U.S.C. 1154(a)(1)(H)) is amended to read as follows:

5       “(H)(i) Any alien seeking classification under section  
6   203(b)(5) may file a petition for such classification with  
7   the Secretary of Homeland Security. An alien seeking to  
8   pool his or her investment with 1 or more additional aliens  
9   seeking classification under section 203(b)(5) shall file for  
10   such classification in accordance with section  
11   203(b)(5)(E), or before the date of the enactment of the  
12   EB–5 Reform and Integrity Act of 2022, in accordance  
13   with section 203(b)(5). An alien petitioning for classifica-  
14   tion under section 203(b)(5)(E) may file a petition with  
15   the Secretary after a regional center has filed an applica-  
16   tion for approval of an investment under section  
17   203(b)(5)(F).

18       “(ii) A petitioner described in clause (i) shall estab-  
19   lish eligibility at the time he or she files a petition for  
20   classification under section 203(b)(5). A petitioner who  
21   was eligible for such classification at the time of such fil-  
22   ing shall be deemed eligible for such classification at the  
23   time such petition is adjudicated, subject to the approval  
24   of the petitioner’s associated application under section  
25   203(b)(5)(F), if applicable.”.

26       (b) **EFFECTIVE DATES.**—



1           (1) IN GENERAL.—The amendment made by  
2       subsection (a) shall take effect on the date of the en-  
3       actment of this Act.

4           (2) APPLICABILITY TO PETITIONS.—Section  
5       204(a)(1)(H)(i) of the Immigration and Nationality  
6       Act, as added by subsection (a), shall apply to any  
7       petition for classification pursuant to section  
8       203(b)(5)(E) of such Act (8 U.S.C. 1153(b)(5)(E))  
9       that is filed with the Secretary of Homeland Secu-  
10      rity on or after the date of the enactment of this  
11      Act.

12      (c) ADJUDICATION OF PETITIONS.—The Secretary of  
13      Homeland Security shall continue to adjudicate petitions  
14      and benefits under sections 203(b)(5) and 216A of the  
15      Immigration and Nationality Act (8 U.S.C. 1153(b)(5)  
16      and 1186b) during the implementation of this Act and the  
17      amendments made by this Act.

18   **SEC. 106. TIMELY PROCESSING.**

19      (a) FEE STUDY.—Not later than 1 year after the  
20      date of the enactment of this Act, the Director of U.S.  
21      Citizenship and Immigration Services shall complete a  
22      study of fees charged in the administration of the program  
23      described in sections 203(b)(5) and 216A of the Immigra-  
24      tion and Nationality Act (8 U.S.C. 1153(b)(5) and  
25      1186b).

1           (b) ADJUSTMENT OF FEES TO ACHIEVE EFFICIENT  
2 PROCESSING.—Notwithstanding section 286(m) of the  
3 Immigration and Nationality Act (8 U.S.C. 1356(m)), and  
4 except as provided under subsection (c), the Director, not  
5 later than 60 days after the completion of the study under  
6 subsection (a), shall set fees for services provided under  
7 sections 203(b)(5) and 216A of such Act (8 U.S.C.  
8 1153(b)(5) and 1186b) at a level sufficient to ensure the  
9 full recovery only of the costs of providing such services,  
10 including the cost of attaining the goal of completing adju-  
11 dications, on average, not later than—

12           (1) 180 days after receiving a proposal for the  
13 establishment of a regional center described in sec-  
14 tion 203(b)(5)(E) of such Act;

15           (2) 180 days after receiving an application for  
16 approval of an investment in a new commercial en-  
17 terprise described in section 203(b)(5)(F) of such  
18 Act;

19           (3) 90 days after receiving an application for  
20 approval of an investment in a new commercial en-  
21 terprise described in section 203(b)(5)(F) of such  
22 Act that is located in a targeted employment area  
23 (as defined in section 203(b)(5)(D) of such Act);

1           (4) 240 days after receiving a petition from an  
2       alien desiring to be classified under section  
3       203(b)(5)(E) of such Act;

4           (5) 120 days after receiving a petition from an  
5       alien desiring to be classified under section  
6       203(b)(5)(E) of such Act with respect to an invest-  
7       ment in a targeted employment area (as defined in  
8       section 203(b)(5)(D) of such Act); and

9           (6) 240 days after receiving a petition from an  
10      alien for removal of conditions described in section  
11      216A(c) of such Act.

12      (c) **ADDITIONAL FEES.**—Fees in excess of the fee lev-  
13      els described in subsection (b) may be charged only—

14           (1) in an amount that is equal to the amount  
15      paid by all other classes of fee-paying applicants for  
16      immigration-related benefits, to contribute to the  
17      coverage or reduction of the costs of processing or  
18      adjudicating classes of immigration benefit applica-  
19      tions that Congress, or the Secretary of Homeland  
20      Security in the case of asylum applications, has au-  
21      thorized to be processed or adjudicated at no cost or  
22      at a reduced cost to the applicant; and

23           (2) in an amount that is not greater than 1  
24      percent of the fee for filing a petition under section  
25      203(b)(5) of the Immigration and Nationality Act (8

1 U.S.C. 1153(b)(5)), to make improvements to the  
2 information technology systems used by the Sec-  
3 retary of Homeland Security to process, adjudicate,  
4 and archive applications and petitions under such  
5 section, including the conversion to electronic format  
6 of documents filed by petitioners and applicants for  
7 benefits under such section.

8 (d) EXEMPTION FROM PAPERWORK REDUCTION  
9 ACT.—During the 1-year period beginning on the date of  
10 the enactment of this Act, the requirements under chapter  
11 35 of title 44, United States Code, shall not apply to any  
12 collection of information required under this division, any  
13 amendment made by this division, or any rule promulgated  
14 by the Secretary of Homeland Security to implement this  
15 division or the amendments made by this division, to the  
16 extent that the Secretary determines that compliance with  
17 such requirements would impede the expeditious imple-  
18 mentation of this division or the amendments made by this  
19 division.

20 (e) RULE OF CONSTRUCTION REGARDING ADJUDICA-  
21 TION DELAYS.—Nothing in this division may be construed  
22 to limit the authority of the Secretary of Homeland Secu-  
23 rity to suspend the adjudication of any application or peti-  
24 tion under section 203(b)(5) or 216A of the Immigration  
25 and Nationality Act (8 U.S.C. 1153(b)(5) and 1186b)

1 pending the completion of a national security or law en-  
2 forcement investigation relating to such application or pe-  
3 tition.

4 (f) RULE OF CONSTRUCTION REGARDING MODIFICA-  
5 TION OF FEES.—Nothing in this section may be construed  
6 to require any modification of fees before the completion  
7 of—

8 (1) the fee study described in subsection (a); or

9 (2) regulations promulgated by the Secretary of  
10 Homeland Security, in accordance with subchapter  
11 II of chapter 5 and chapter 7 of title 5, United  
12 States Code (commonly known as the “Administra-  
13 tive Procedure Act”), to carry out subsections (b)  
14 and (c).

15 **SEC. 107. TRANSPARENCY.**

16 (a) IN GENERAL.—Employees of the Department of  
17 Homeland Security, including the Secretary of Homeland  
18 Security, the Secretary’s counselors, the Assistant Sec-  
19 retary for the Private Sector, the Director of U.S. Citizen-  
20 ship and Immigration Services, counselors to such Direc-  
21 tor, and the Chief of the Immigrant Investor Programs  
22 Office (or any successor to such Office) at U.S. Citizen-  
23 ship and Immigration Services, shall act impartially and  
24 may not give preferential treatment to any entity, organi-  
25 zation, or individual in connection with any aspect of the

1 immigrant visa program described in section 203(b)(5) of  
2 the Immigration and Nationality Act (8 U.S.C.  
3 1153(b)(5)).

4 (b) IMPROPER ACTIVITIES.—Activities that con-  
5 stitute preferential treatment under subsection (a) shall  
6 include—

7 (1) working on, or in any way attempting to in-  
8 fluence, in a manner not available to or accorded to  
9 all other petitioners, applicants, and seekers of bene-  
10 fits under the immigrant visa program referred to in  
11 subsection (a), the standard processing of an appli-  
12 cation, petition, or benefit for—

13 (A) a regional center;

14 (B) a new commercial enterprise;

15 (C) a job-creating entity; or

16 (D) any person or entity associated with  
17 such regional center, new commercial enter-  
18 prise, or job-creating entity; and

19 (2) meeting or communicating with persons as-  
20 sociated with the entities listed in paragraph (1), at  
21 the request of such persons, in a manner not avail-  
22 able to or accorded to all other petitioners, appli-  
23 cants, and seekers of benefits under such immigrant  
24 visa program.

25 (c) REPORTING OF COMMUNICATIONS.—

1           (1) WRITTEN COMMUNICATION.—Employees of  
2           the Department of Homeland Security, including the  
3           officials listed in subsection (a), shall include, in the  
4           record of proceeding for a case under section  
5           203(b)(5) of the Immigration and Nationality Act (8  
6           U.S.C. 1153(b)(5)), actual or electronic copies of all  
7           case-specific written communication, including  
8           emails from government and private accounts, with  
9           non-Department persons or entities advocating for  
10          regional center applications or individual petitions  
11          under such section that are pending on or after the  
12          date of the enactment of this Act (other than rou-  
13          tine communications with other agencies of the Fed-  
14          eral Government regarding the case, including com-  
15          munications involving background checks and litiga-  
16          tion defense).

17          (2) ORAL COMMUNICATION.—If substantive oral  
18          communication, including telephonic communication,  
19          virtual communication, or in-person meetings, takes  
20          place between officials of the Department of Home-  
21          land Security and non-Department persons or enti-  
22          ties advocating for regional center applications or in-  
23          dividual petitions under section 203(b)(5) of such  
24          Act that are pending on or after the date of the en-

1 actment of this Act (except communications exempt-  
2 ed under paragraph (1))—

3 (A) the conversation shall be recorded; or

4 (B) detailed minutes of the session shall be  
5 taken and included in the record of proceeding.

6 (3) NOTIFICATION.—

7 (A) IN GENERAL.—If the Secretary, in the  
8 course of written or oral communication de-  
9 scribed in this subsection, receives evidence  
10 about a specific case from anyone other than an  
11 affected party or his or her representative (ex-  
12 cluding Federal Government or law enforcement  
13 sources), such information may not be made  
14 part of the record of proceeding and may not  
15 be considered in adjudicative proceedings un-  
16 less—

17 (i) the affected party has been given  
18 notice of such evidence; and

19 (ii) if such evidence is derogatory, the  
20 affected party has been given an oppor-  
21 tunity to respond to the evidence.

22 (B) INFORMATION FROM LAW ENFORCE-  
23 MENT, INTELLIGENCE AGENCIES, OR CON-  
24 FIDENTIAL SOURCES.—



1 (i) LAW ENFORCEMENT OR INTEL-  
2 LIGENCE AGENCIES.—Evidence received  
3 from law enforcement or intelligence agen-  
4 cies may not be made part of the record of  
5 proceeding without the consent of the rel-  
6 evant agency or law enforcement entity.

7 (ii) WHISTLEBLOWERS, CONFIDEN-  
8 TIAL SOURCES, OR INTELLIGENCE AGEN-  
9 CIES.—Evidence received from whistle-  
10 blowers, other confidential sources, or the  
11 intelligence community that is included in  
12 the record of proceeding and considered in  
13 adjudicative proceedings shall be handled  
14 in a manner that does not reveal the iden-  
15 tity of the whistleblower or confidential  
16 source, or reveal classified information.

17 (d) CONSIDERATION OF EVIDENCE.—

18 (1) IN GENERAL.—No case-specific communica-  
19 tion with persons or entities that are not part of the  
20 Department of Homeland Security may be consid-  
21 ered in the adjudication of an application or petition  
22 under section 203(b)(5) of the Immigration and Na-  
23 tionality Act (8 U.S.C. 1153(b)(5)) unless the com-  
24 munication is included in the record of proceeding of  
25 the case.

1           (2) WAIVER.—The Secretary of Homeland Se-  
2           curity may waive the requirement under paragraph  
3           (1) only in the interests of national security or for  
4           investigative or law enforcement purposes.

5           (e) CHANNELS OF COMMUNICATION.—

6           (1) EMAIL ADDRESS OR EQUIVALENT.—The Di-  
7           rector of U.S. Citizenship and Immigration Services  
8           shall maintain an email account (or equivalent  
9           means of communication) for persons or entities—

10           (A) with inquiries regarding specific peti-  
11           tions or applications under the immigrant visa  
12           program described in section 203(b)(5) of the  
13           Immigration and Nationality Act (8 U.S.C.  
14           1153(b)(5)); or

15           (B) seeking information that is not case-  
16           specific about the immigrant visa program de-  
17           scribed in such section 203(b)(5).

18           (2) COMMUNICATION ONLY THROUGH APPRO-  
19           PRIATE CHANNELS OR OFFICES.—

20           (A) ANNOUNCEMENT OF APPROPRIATE  
21           CHANNELS OF COMMUNICATION.—Not later  
22           than 40 days after the date of the enactment of  
23           this Act, the Director of U.S. Citizenship and  
24           Immigration Services shall announce that the  
25           only channels or offices by which industry

1 stakeholders, petitioners, applicants, and seek-  
2 ers of benefits under the immigrant visa pro-  
3 gram described in section 203(b)(5) of the Im-  
4 migration and Nationality Act (8 U.S.C.  
5 1153(b)(5)) may communicate with the Depart-  
6 ment of Homeland Security regarding specific  
7 cases under such section (except for commu-  
8 nication made by applicants and petitioners  
9 pursuant to regular adjudicatory procedures),  
10 or information that is not case-specific about  
11 the visa program applicable to certain cases  
12 under such section, are through—

13 (i) the email address or equivalent  
14 channel described in paragraph (1);

15 (ii) the National Customer Service  
16 Center, or any successor to such Center; or

17 (iii) the Office of Public Engagement,  
18 Immigrant Investor Program Office, in-  
19 cluding the Stakeholder Engagement  
20 Branch, or any successors to those Offices  
21 or that Branch.

22 (B) DIRECTION OF INCOMING COMMUNICA-  
23 TIONS.—

24 (i) IN GENERAL.—Employees of the  
25 Department of Homeland Security shall di-

1 rect communications described in subpara-  
2 graph (A) to the channels of communica-  
3 tion or offices listed in clauses (i) through  
4 (iii) of subparagraph (A).

5 (ii) RULE OF CONSTRUCTION.—Noth-  
6 ing in this subparagraph may be construed  
7 to prevent—

8 (I) any person from commu-  
9 nicating with the Ombudsman of U.S.  
10 Citizenship and Immigration Services  
11 regarding the immigrant investor pro-  
12 gram under section 203(b)(5) of the  
13 Immigration and Nationality Act (8  
14 U.S.C. 1153(b)(5)); or

15 (II) the Ombudsman from resolv-  
16 ing problems regarding such immi-  
17 grant investor program pursuant to  
18 the authority granted under section  
19 452 of the Homeland Security Act of  
20 2002 (6 U.S.C. 272).

21 (C) LOG.—

22 (i) IN GENERAL.—The Director of  
23 U.S. Citizenship and Immigration Services  
24 shall maintain a written or electronic log  
25 of—

1 (I) all communications described  
2 in subparagraph (A) and communica-  
3 tions from Members of Congress,  
4 which shall reference the date, time,  
5 and subject of the communication,  
6 and the identity of the Department of-  
7 ficial, if any, to whom the inquiry was  
8 forwarded;

9 (II) with respect to written com-  
10 munications described in subsection  
11 (c)(1), the date on which the commu-  
12 nication was received, the identities of  
13 the sender and addressee, and the  
14 subject of the communication; and

15 (III) with respect to oral commu-  
16 nications described in subsection  
17 (c)(2), the date on which the commu-  
18 nication occurred, the participants in  
19 the conversation or meeting, and the  
20 subject of the communication.

21 (ii) TRANSPARENCY.—The log of com-  
22 munications described in clause (i) shall be  
23 made publicly available in accordance with  
24 section 552 of title 5, United States Code

1 (commonly known as the “Freedom of In-  
2 formation Act”).

3 (3) PUBLICATION OF INFORMATION.—Not later  
4 than 30 days after a person or entity inquiring  
5 about a specific case or generally about the immi-  
6 grant visa program described in section 203(b)(5) of  
7 the Immigration and Nationality Act (8 U.S.C.  
8 1153(b)(5)) receives, as a result of a communication  
9 with an official of the Department of Homeland Se-  
10 curity, generally applicable information that is not  
11 case-specific about program requirements or admin-  
12 istration that has not been made publicly available  
13 by the Department, the Director of U.S. Citizenship  
14 and Immigration Services shall publish such infor-  
15 mation on the U.S. Citizenship and Immigration  
16 Services website as an update to the relevant Fre-  
17 quently Asked Questions page or by some other com-  
18 parable mechanism.

19 (f) PENALTY.—

20 (1) IN GENERAL.—Any person who inten-  
21 tionally violates the prohibition on preferential treat-  
22 ment under this section or intentionally violates the  
23 reporting requirements under subsection (c) shall be  
24 disciplined in accordance with paragraph (2).

1           (2) SANCTIONS.—Not later than 90 days after  
2       the date of the enactment of this Act, the Secretary  
3       of Homeland Security shall establish a graduated set  
4       of sanctions based on the severity of the violation re-  
5       ferred to in paragraph (1), which may include, in  
6       addition to any criminal or civil penalties that may  
7       be imposed, written reprimand, suspension, demo-  
8       tion, or removal.

9       (g) RULE OF CONSTRUCTION REGARDING CLASSI-  
10      FIED INFORMATION.—Nothing in this section may be con-  
11      strued to modify any law, regulation, or policy regarding  
12      the handling or disclosure of classified information.

13      (h) RULE OF CONSTRUCTION REGARDING PRIVATE  
14      RIGHT OF ACTION.—Nothing in this section may be con-  
15      strued to create or authorize a private right of action to  
16      challenge a decision of an employee of the Department of  
17      Homeland Security.

18      (i) EFFECTIVE DATE.—This section, and the amend-  
19      ments made by this section, shall take effect on the date  
20      of the enactment of this Act.

21      **SEC. 108. PROTECTION FROM EXPIRED LEGISLATION.**

22      Section 203(b)(5) of the Immigration and Nationality  
23      Act (8 U.S.C. 1153(b)(5)), as amended by sections 102  
24      and 103 of this division, is further amended by adding  
25      at the end the following:

1 “(S) PROTECTION FROM EXPIRED LEGIS-  
2 LATION.—Notwithstanding the expiration of  
3 legislation authorizing the regional center pro-  
4 gram under subparagraph (E), the Secretary of  
5 Homeland Security—

6 “(i) shall continue processing petitions  
7 under sections 204(a)(1)(H) and 216A  
8 based on an investment in a new commer-  
9 cial enterprise associated with a regional  
10 center that were filed on or before Sep-  
11 tember 30, 2026;

12 “(ii) may not deny a petition de-  
13 scribed in clause (i) based on the expira-  
14 tion of such legislation; and

15 “(iii) may not suspend or terminate  
16 the allocation of visas to the beneficiaries  
17 of approved petitions described in clause  
18 (i).”.

19 **DIVISION CC—BURIAL EQUITY**  
20 **FOR GUARDS AND RESERVES**  
21 **ACT**

22 **SEC. 101. SHORT TITLE.**

23 This division may be cited as the “Burial Equity for  
24 Guards and Reserves Act”.