

117TH CONGRESS
1ST SESSION

H. R. 3648

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2021

Ms. LOFGREN (for herself, Mr. CURTIS, Mr. NADLER, Mr. JOHNSON of Ohio, Ms. BASS, Mr. FITZPATRICK, Mr. CICILLINE, Mr. VELA, Mr. SWALWELL, Mr. LANGEVIN, Mr. WELCH, Mrs. LURIA, Mr. CORREA, Mr. GARAMENDI, Ms. SCHRIER, Mr. COHEN, Mr. SEAN PATRICK MALONEY of New York, Mr. KRISHNAMOORTHY, Mr. YARMUTH, and Mr. KHANNA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Equal Access to Green
3 cards for Legal Employment Act of 2021” or the
4 “EAGLE Act of 2021”.

5 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**
6 **STATE.**

7 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
9 amended to read as follows:

10 “(2) PER COUNTRY LEVELS FOR FAMILY-SPON-
11 SORED IMMIGRANTS.—Subject to paragraphs (3)
12 and (4), the total number of immigrant visas made
13 available to natives of any single foreign state or de-
14 pendent area under section 203(a) in any fiscal year
15 may not exceed 15 percent (in the case of a single
16 foreign state) or 2 percent (in the case of a depend-
17 ent area) of the total number of such visas made
18 available under such section in that fiscal year.”.

19 (b) CONFORMING AMENDMENTS.—Section 202 of
20 such Act (8 U.S.C. 1152) is amended—

21 (1) in subsection (a)—

22 (A) in paragraph (3), by striking “both
23 subsections (a) and (b) of section 203” and in-
24 serting “section 203(a)”; and

25 (B) by striking paragraph (5); and

1 (2) by amending subsection (e) to read as fol-
2 lows:

3 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
4 If the total number of immigrant visas made available
5 under section 203(a) to natives of any single foreign state
6 or dependent area will exceed the numerical limitation
7 specified in subsection (a)(2) in any fiscal year, immigrant
8 visas shall be allotted to such natives under section 203(a)
9 (to the extent practicable and otherwise consistent with
10 this section and section 203) in a manner so that, except
11 as provided in subsection (a)(4), the proportion of the
12 visas made available under each of paragraphs (1) through
13 (4) of section 203(a) is equal to the ratio of the total visas
14 made available under the respective paragraph to the total
15 visas made available under section 203(a).”.

16 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
17 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
18 note) is amended—

19 (1) in subsection (a), by striking “(as defined
20 in subsection (e))”;

21 (2) by striking subsection (d); and

22 (3) by redesignating subsection (e) as sub-
23 section (d).

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the first day of the second

1 fiscal year beginning after the date of the enactment of
2 this Act, and shall apply to that fiscal year and each sub-
3 sequent fiscal year.

4 (e) TRANSITION RULES FOR EMPLOYMENT-BASED
5 IMMIGRANTS.—Notwithstanding title II of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1151 et seq.), the fol-
7 lowing transition rules shall apply to employment-based
8 immigrants, beginning on the effective date referred to in
9 subsection (d):

10 (1) RESERVED VISAS FOR LOWER ADMISSION
11 STATES.—

12 (A) IN GENERAL.—For the first nine fiscal
13 years after the effective date referred to in sub-
14 section (d), immigrant visas under each of
15 paragraphs (2) and (3) of section 203(b) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1153(b)) shall be reserved and allocated to im-
18 migrants who are natives of a foreign state or
19 dependent area that is not one of the two for-
20 eign states or dependent areas with the highest
21 demand for immigrant visas as follows:

22 (i) For the first fiscal year after such
23 effective date, 30 percent of such visas.

1 (ii) For the second fiscal year after
2 such effective date, 25 percent of such
3 visas.

4 (iii) For the third fiscal year after
5 such effective date, 20 percent of such
6 visas.

7 (iv) For the fourth fiscal year after
8 such effective date, 15 percent of such
9 visas.

10 (v) For the fifth and sixth fiscal years
11 after such effective date, 10 percent of
12 such visas.

13 (vi) For the seventh, eighth, and
14 ninth fiscal years after such effective date,
15 5 percent of such visas.

16 (B) ADDITIONAL RESERVED VISAS FOR
17 NEW ARRIVALS.—For each of the first nine fis-
18 cal years after the effective date referred to in
19 subsection (d), an additional 5.75 percent of the
20 immigrant visas made available under each of
21 paragraphs (2) and (3) of section 203(b) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1153(b)) shall be allocated to immigrants who
24 are natives of a foreign state or dependent area
25 that is not one of the two foreign states or de-

1 pendent areas with the highest demand for im-
2 migrant visas. Such additional visas shall be al-
3 located in the following order of priority:

4 (i) FAMILY MEMBERS ACCOMPANYING
5 OR FOLLOWING TO JOIN.—Visas reserved
6 under this subparagraph shall be allocated
7 to family members described in section
8 203(d) of the Immigration and Nationality
9 Act (8 U.S.C. 1153(d)) who are accom-
10 panying or following to join a principal
11 beneficiary who is in the United States and
12 has been granted an immigrant visa or ad-
13 justment of status to lawful permanent
14 residence under paragraph (2) or (3) of
15 section 203(b) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1153(b)).

17 (ii) NEW PRINCIPAL ARRIVALS.—If at
18 the end of the second quarter of any fiscal
19 year, the total number of visas reserved
20 under this subparagraph exceeds the num-
21 ber of qualified immigrants described in
22 clause (i), such visas may also be allocated,
23 for the remainder of the fiscal year, to in-
24 dividuals (and their family members de-
25 scribed in section 203(d) of the Immigra-

1 tion and Nationality Act (8 U.S.C.
2 1153(d))) who are seeking an immigrant
3 visa under paragraph (2) or (3) of section
4 203(b) of the Immigration and Nationality
5 Act (8 U.S.C. 1153(b)) to enter the United
6 States as new immigrants, and who have
7 not resided or worked in the United States
8 at any point in the four-year period imme-
9 diately preceding the filing of the immi-
10 grant visa petition.

11 (iii) OTHER NEW ARRIVALS.—If at
12 the end of the third quarter of any fiscal
13 year, the total number of visas reserved
14 under this subparagraph exceeds the num-
15 ber of qualified immigrants described in
16 clauses (i) and (ii), such visas may be also
17 be allocated, for the remainder of the fiscal
18 year, to other individuals (and their family
19 members described in section 203(d) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1153(d))) who are seeking an immigrant
22 visa under paragraph (2) or (3) of section
23 203(b) of the Immigration and Nationality
24 Act (8 U.S.C. 1153(b)).

1 (2) RESERVED VISAS FOR SHORTAGE OCCUPA-
2 TIONS.—

3 (A) IN GENERAL.—For each of the first
4 seven fiscal years after the effective date re-
5 ferred to in subsection (d), not fewer than
6 4,400 of the immigrant visas made available
7 under section 203(b)(3) of the Immigration and
8 Nationality Act (8 U.S.C. 1153(b)(3)), and not
9 reserved under paragraph (1), shall be allocated
10 to immigrants who are seeking admission to the
11 United States to work in an occupation de-
12 scribed in section 656.5(a) of title 20, Code of
13 Federal Regulations (or any successor regula-
14 tion).

15 (B) FAMILY MEMBERS.—Family members
16 who are accompanying or following to join a
17 principal beneficiary described in subparagraph
18 (A) shall be entitled to a visa in the same sta-
19 tus and in the same order of consideration as
20 such principal beneficiary, but such visa shall
21 not be counted against the 4,400 immigrant
22 visas reserved under such subparagraph.

23 (3) PER-COUNTRY LEVELS.—For each of the
24 first nine fiscal years after the effective date referred
25 to in subsection (d)—

1 (A) not more than 25 percent (in the case
2 of a single foreign state) or 2 percent (in the
3 case of a dependent area) of the total number
4 of visas reserved under paragraph (1) shall be
5 allocated to immigrants who are natives of any
6 single foreign state or dependent area; and

7 (B) not more than 85 percent of the immi-
8 grant visas made available under each of para-
9 graphs (2) and (3) of section 203(b) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1153(b)) and not reserved under paragraph (1),
12 may be allocated to immigrants who are native
13 to any single foreign state or dependent area.

14 (4) SPECIAL RULE TO PREVENT UNUSED
15 VISAS.—If, at the end of the third quarter of any
16 fiscal year, the Secretary of State determines that
17 the application of paragraphs (1) through (3) would
18 result in visas made available under paragraph (2)
19 or (3) of section 203(b) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1153(b)) going unused in
21 that fiscal year, such visas may be allocated during
22 the remainder of such fiscal year without regard to
23 paragraphs (1) through (3).

24 (5) RULES FOR CHARGEABILITY AND DEPEND-
25 ENTS.—Section 202(b) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1152(b)) shall apply in deter-
2 mining the foreign state to which an alien is charge-
3 able, and section 203(d) of such Act (8 U.S.C.
4 1153(d)) shall apply in allocating immigrant visas to
5 family members, for purposes of this subsection.

6 (6) DETERMINATION OF TWO FOREIGN STATES
7 OR DEPENDENT AREAS WITH HIGHEST DEMAND.—

8 The two foreign states or dependent areas with the
9 highest demand for immigrant visas, as referred to
10 in this subsection, are the two foreign states or de-
11 pendent areas with the largest aggregate number
12 beneficiaries of petitions for an immigrant visa
13 under section 203(b) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1153(b)) that have been ap-
15 proved, but where an immigrant visa is not yet avail-
16 able, as determined by the Secretary of State, in
17 consultation with the Secretary of Homeland Secu-
18 rity.

19 **SEC. 3. POSTING AVAILABLE POSITIONS THROUGH THE DE-**
20 **PARTMENT OF LABOR.**

21 (a) DEPARTMENT OF LABOR WEBSITE.—Section
22 212(n) of the Immigration and Nationality Act (8 U.S.C.
23 1182(n)) is amended by adding at the end the following:

24 “(6) For purposes of complying with paragraph
25 (1)(C):

1 “(A) Not later than 180 days after the
2 date of the enactment of the Equal Access to
3 Green cards for Legal Employment Act of
4 2021, the Secretary of Labor shall establish a
5 searchable internet website for posting positions
6 in accordance with paragraph (1)(C) that is
7 available to the public without charge, except
8 that the Secretary may delay the launch of such
9 website for a single period identified by the Sec-
10 retary by notice in the Federal Register that
11 shall not exceed 30 days.

12 “(B) The Secretary may work with private
13 companies or nonprofit organizations to develop
14 and operate the internet website described in
15 subparagraph (A).

16 “(C) The Secretary shall promulgate rules,
17 after notice and a period for comment, to carry
18 out this paragraph.”.

19 (b) PUBLICATION REQUIREMENT.—The Secretary of
20 Labor shall submit to Congress, and publish in the Fed-
21 eral Register and in other appropriate media, a notice of
22 the date on which the internet website required under sec-
23 tion 212(n)(6) of the Immigration and Nationality Act,
24 as established by subsection (a), will be operational.

1 (c) APPLICATION.—The amendment made by sub-
2 section (a) shall apply to any application filed on or after
3 the date that is 90 days after the date described in sub-
4 section (b).

5 (d) INTERNET POSTING REQUIREMENT.—Section
6 212(n)(1)(C) of the Immigration and Nationality Act (8
7 U.S.C. 1182(n)(1)(C)) is amended—

8 (1) by redesignating clause (ii) as subclause
9 (II);

10 (2) by striking “(i) has provided” and inserting
11 the following:

12 “(ii)(I) has provided”; and

13 (3) by inserting before clause (ii), as redesign-
14 nated by paragraph (2), the following:

15 “(i) except in the case of an employer
16 filing a petition on behalf of an H–1B non-
17 immigrant who has already been counted
18 against the numerical limitations and is
19 not eligible for a full 6-year period, as de-
20 scribed in section 214(g)(7), or on behalf
21 of an H–1B nonimmigrant authorized to
22 accept employment under section 214(n),
23 has posted on the internet website de-
24 scribed in paragraph (6), for at least 30
25 calendar days, a description of each posi-

1 tion for which a nonimmigrant is sought,
2 that includes—

3 “(I) the occupational classifica-
4 tion, and if different the employer’s
5 job title for the position, in which the
6 nonimmigrant(s) will be employed;

7 “(II) the education, training, or
8 experience qualifications for the posi-
9 tion;

10 “(III) the salary or wage range
11 and employee benefits offered;

12 “(IV) the location(s) at which the
13 nonimmigrant(s) will be employed;
14 and

15 “(V) the process for applying for
16 a position; and”.

17 **SEC. 4. H-1B EMPLOYER PETITION REQUIREMENTS.**

18 (a) **WAGE DETERMINATION INFORMATION.**—Section
19 212(n)(1)(D) of the Immigration and Nationality Act (8
20 U.S.C. 1182(n)(1)(D)) is amended by inserting “the pre-
21 vailing wage determination methodology used under sub-
22 paragraph (A)(i)(II),” after “shall contain”.

23 (b) **NEW APPLICATION REQUIREMENTS.**—Section
24 212(n)(1) of the Immigration and Nationality Act (8

1 U.S.C. 1182(n)(1)) is amended by inserting after subpara-
2 graph (G)(ii) the following:

3 “(H)(i) The employer, or a person or enti-
4 ty acting on the employer’s behalf, has not ad-
5 vertised any available position specified in the
6 application in an advertisement that states or
7 indicates that—

8 “(I) such position is only available to
9 an individual who is or will be an H–1B
10 nonimmigrant; or

11 “(II) an individual who is or will be
12 an H–1B nonimmigrant shall receive pri-
13 ority or a preference in the hiring process
14 for such position.

15 “(ii) The employer has not primarily re-
16 cruited individuals who are or who will be H–
17 1B nonimmigrants to fill such position.

18 “(I) If the employer, in a previous period
19 specified by the Secretary, employed one or
20 more H–1B nonimmigrants, the employer shall
21 submit to the Secretary the Internal Revenue
22 Service Form W–2 Wage and Tax Statements
23 filed by the employer with respect to the H–1B
24 nonimmigrants for such period.”.

1 (c) ADDITIONAL REQUIREMENT FOR NEW H-1B PE-
2 TITIONS.—

3 (1) IN GENERAL.—Section 212(n)(1) of the Im-
4 migration and Nationality Act (8 U.S.C.
5 1182(n)(1)), as amended by subsection (b), is fur-
6 ther amended by inserting after subparagraph (I),
7 the following:

8 “(J)(i) If the employer employs 50 or more
9 employees in the United States, the sum of the
10 number of such employees who are H-1B non-
11 immigrants plus the number of such employees
12 who are nonimmigrants described in section
13 101(a)(15)(L) does not exceed 50 percent of
14 the total number of employees.

15 “(ii) Any group treated as a single em-
16 ployer under subsection (b), (c), (m), or (o) of
17 section 414 of the Internal Revenue Code of
18 1986 shall be treated as a single employer for
19 purposes of clause (i).”.

20 (2) RULE OF CONSTRUCTION.—Nothing in sub-
21 paragraph (J) of section 212(n)(1) of the Immigra-
22 tion and Nationality Act (8 U.S.C. 1182(n)(1)), as
23 added by paragraph (1), may be construed to pro-
24 hibit renewal applications or change of employer ap-

1 plications for H-1B nonimmigrants employed by an
2 employer on the date of the enactment of this Act.

3 (3) EFFECTIVE DATE.—The amendment made
4 by this subsection shall take effect on the date that
5 is 180 days after the date of the enactment of this
6 Act.

7 (d) LABOR CONDITION APPLICATION FEE.—Section
8 212(n) of the Immigration and Nationality Act (8 U.S.C.
9 1182(n)), as amended by section 3(a), is further amended
10 by adding at the end the following:

11 “(7)(A) The Secretary of Labor shall promul-
12 gate a regulation that requires applicants under this
13 subsection to pay an administrative fee to cover the
14 average paperwork processing costs and other ad-
15 ministrative costs.

16 “(B)(i) Fees collected under this paragraph
17 shall be deposited as offsetting receipts within the
18 general fund of the Treasury in a separate account,
19 which shall be known as the ‘H-1B Administration,
20 Oversight, Investigation, and Enforcement Account’
21 and shall remain available until expended.

22 “(ii) The Secretary of the Treasury shall refund
23 amounts in such account to the Secretary of Labor
24 for salaries and related expenses associated with the

1 administration, oversight, investigation, and enforce-
2 ment of the H-1B nonimmigrant visa program.”.

3 (e) ELIMINATION OF B-1 IN LIEU OF H-1.—Section
4 214(g) of the Immigration and Nationality Act (8 U.S.C.
5 1184(g)) is amended by adding at the end the following:

6 “(12)(A) Unless otherwise authorized by law,
7 an alien normally classifiable under section
8 101(a)(15)(H)(i) who seeks admission to the United
9 States to provide services in a specialty occupation
10 described in paragraph (1) or (3) of subsection (i)
11 may not be issued a visa or admitted under section
12 101(a)(15)(B) for such purpose.

13 “(B) Nothing in this paragraph may be con-
14 strued to authorize the admission of an alien under
15 section 101(a)(15)(B) who is coming to the United
16 States for the purpose of performing skilled or un-
17 skilled labor if such admission is not otherwise au-
18 thorized by law.”.

19 **SEC. 5. INVESTIGATION AND DISPOSITION OF COMPLAINTS**
20 **AGAINST H-1B EMPLOYERS.**

21 (a) INVESTIGATION, WORKING CONDITIONS, AND
22 PENALTIES.—Section 212(n)(2)(C) of the Immigration
23 and Nationality Act (8 U.S.C. 1182(n)(2)(C)) is amended
24 by striking clause (iv) and inserting the following:

1 “(iv)(I) An employer that has filed an
2 application under this subsection violates
3 this clause by taking, failing to take, or
4 threatening to take or fail to take a per-
5 sonnel action, or intimidating, threatening,
6 restraining, coercing, blacklisting, dis-
7 charging, or discriminating in any other
8 manner against an employee because the
9 employee—

10 “(aa) disclosed information that
11 the employee reasonably believes evi-
12 dences a violation of this subsection or
13 any rule or regulation pertaining to
14 this subsection; or

15 “(bb) cooperated or sought to co-
16 operate with the requirements under
17 this subsection or any rule or regula-
18 tion pertaining to this subsection.

19 “(II) An employer that violates this
20 clause shall be liable to the employee
21 harmed by such violation for lost wages
22 and benefits.

23 “(III) In this clause, the term ‘em-
24 ployee’ includes—

25 “(aa) a current employee;

1 “(bb) a former employee; and
2 “(cc) an applicant for employ-
3 ment.”.

4 (b) INFORMATION SHARING.—Section 212(n)(2)(H)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1182(n)(2)(H)) is amended to read as follows:

7 “(H)(i) The Director of U.S. Citizenship
8 and Immigration Services shall provide the Sec-
9 retary of Labor with any information contained
10 in the materials submitted by employers of H-
11 1B nonimmigrants as part of the petition adju-
12 dication process that indicates that the em-
13 ployer is not complying with visa program re-
14 quirements for H-1B nonimmigrants.

15 “(ii) The Secretary may initiate and con-
16 duct an investigation and hearing under this
17 paragraph after receiving information of non-
18 compliance under this subparagraph.”.

19 **SEC. 6. LABOR CONDITION APPLICATIONS.**

20 (a) APPLICATION REVIEW REQUIREMENTS.—Section
21 212(n)(1) of the Immigration and Nationality Act (8
22 U.S.C. 1182(n)(1)) is amended, in the undesignated mat-
23 ter following subparagraph (I), as added by section 4(b)—

1 (1) in the fourth sentence, by inserting “, and
2 through the internet website of the Department of
3 Labor, without charge.” after “Washington, D.C.”;

4 (2) in the fifth sentence, by striking “only for
5 completeness” and inserting “for completeness, clear
6 indicators of fraud or misrepresentation of material
7 fact,”;

8 (3) in the sixth sentence, by striking “or obvi-
9 ously inaccurate” and inserting “, presents clear in-
10 dicators of fraud or misrepresentation of material
11 fact, or is obviously inaccurate”; and

12 (4) by adding at the end the following: “If the
13 Secretary’s review of an application identifies clear
14 indicators of fraud or misrepresentation of material
15 fact, the Secretary may conduct an investigation and
16 hearing in accordance with paragraph (2).”.

17 (b) ENSURING PREVAILING WAGES ARE FOR AREA
18 OF EMPLOYMENT AND ACTUAL WAGES ARE FOR SIMI-
19 LARLY EMPLOYED.—Section 212(n)(1)(A) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1182(n)(1)(A)) is
21 amended—

22 (1) in clause (i), in the undesignated matter fol-
23 lowing subclause (II), by striking “and” at the end;

24 (2) in clause (ii), by striking the period at the
25 end and inserting “, and”; and

1 (3) by adding at the end the following:

2 “(iii) will ensure that—

3 “(I) the actual wages or range
4 identified in clause (i) relate solely to
5 employees having substantially the
6 same duties and responsibilities as the
7 H–1B nonimmigrant in the geo-
8 graphical area of intended employ-
9 ment, considering experience, quali-
10 fications, education, job responsibility
11 and function, specialized knowledge,
12 and other legitimate business factors,
13 except in a geographical area there
14 are no such employees, and

15 “(II) the prevailing wages identi-
16 fied in clause (ii) reflect the best
17 available information for the geo-
18 graphical area within normal com-
19 muting distance of the actual address
20 of employment at which the H–1B
21 nonimmigrant is or will be em-
22 ployed.”.

23 (c) PROCEDURES FOR INVESTIGATION AND DISPOSI-
24 TION.—Section 212(n)(2)(A) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1182(n)(2)(A)) is amended—

1 (1) by striking “(2)(A) Subject” and inserting
2 “(2)(A)(i) Subject”;

3 (2) by striking the fourth sentence; and

4 (3) by adding at the end the following:

5 “(ii)(I) Upon receipt of a complaint
6 under clause (i), the Secretary may initiate
7 an investigation to determine whether such
8 a failure or misrepresentation has oc-
9 curred.

10 “(II) The Secretary may conduct—

11 “(aa) surveys of the degree to
12 which employers comply with the re-
13 quirements under this subsection; and

14 “(bb) subject to subclause (IV),
15 annual compliance audits of any em-
16 ployer that employs H-1B non-
17 immigrants during the applicable cal-
18 endar year.

19 “(III) Subject to subclause (IV), the
20 Secretary shall—

21 “(aa) conduct annual compliance
22 audits of each employer that employs
23 more than 100 full-time equivalent
24 employees who are employed in the
25 United States if more than 15 percent

1 of such full-time employees are H-1B
2 nonimmigrants; and

3 “(bb) make available to the pub-
4 lic an executive summary or report de-
5 scribing the general findings of the
6 audits conducted under this subclause.

7 “(IV) In the case of an employer sub-
8 ject to an annual compliance audit in
9 which there was no finding of a willful fail-
10 ure to meet a condition under subpara-
11 graph (C)(ii), no further annual compli-
12 ance audit shall be conducted with respect
13 to such employer for a period of not less
14 than 4 years, absent evidence of misrepre-
15 sentation or fraud.”.

16 (d) PENALTIES FOR VIOLATIONS.—Section
17 212(n)(2)(C) of the Immigration and Nationality Act (8
18 U.S.C. 1182(n)(2)(C)) is amended—

19 (1) in clause (i)—

20 (A) in the matter preceding subclause (I),
21 by striking “a condition of paragraph (1)(B),
22 (1)(E), or (1)(F)” and inserting “a condition of
23 paragraph (1)(B), (1)(E), (1)(F), (1)(H), or
24 1(I)”; and

1 (B) in subclause (I), by striking “\$1,000”
2 and inserting “\$3,000”;

3 (2) in clause (ii)(I), by striking “\$5,000” and
4 inserting “\$15,000”;

5 (3) in clause (iii)(I), by striking “\$35,000” and
6 inserting “\$100,000”; and

7 (4) in clause (vi)(III), by striking “\$1,000” and
8 inserting “\$3,000”.

9 (e) INITIATION OF INVESTIGATIONS.—Section
10 212(n)(2)(G) of the Immigration and Nationality Act (8
11 U.S.C. 1182(n)(2)(G)) is amended—

12 (1) in clause (i), by striking “In the case of an
13 investigation” in the second sentence and all that
14 follows through the period at the end of the clause;

15 (2) in clause (ii), in the first sentence, by strik-
16 ing “and whose identity” and all that follows
17 through “failure or failures.” and inserting “the
18 Secretary of Labor may conduct an investigation
19 into the employer’s compliance with the require-
20 ments under this subsection.”;

21 (3) in clause (iii), by striking the second sen-
22 tence;

23 (4) by striking clauses (iv) and (v);

24 (5) by redesignating clauses (vi), (vii), and (viii)
25 as clauses (iv), (v), and (vi), respectively;

1 (6) in clause (iv), as so redesignated—

2 (A) by striking “clause (viii)” and insert-
3 ing “clause (vi)”;

4 (B) by striking “meet a condition de-
5 scribed in clause (ii)” and inserting “comply
6 with the requirements under this subsection”;

7 (7) by amending clause (v), as so redesignated,
8 to read as follows:

9 “(v)(I) The Secretary of Labor shall
10 provide notice to an employer of the intent
11 to conduct an investigation under clause (i)
12 or (ii).

13 “(II) The notice shall be provided in
14 such a manner, and shall contain sufficient
15 detail, to permit the employer to respond
16 to the allegations before an investigation is
17 commenced.

18 “(III) The Secretary is not required
19 to comply with this clause if the Secretary
20 determines that such compliance would
21 interfere with an effort by the Secretary to
22 investigate or secure compliance by the em-
23 ployer with the requirements of this sub-
24 section.

1 “(IV) A determination by the Sec-
2 retary under this clause shall not be sub-
3 ject to judicial review.”;

4 (8) in clause (vi), as so redesignated, by strik-
5 ing “An investigation” in the first sentence and all
6 that follows through “the determination.” in the sec-
7 ond sentence and inserting “If the Secretary of
8 Labor, after an investigation under clause (i) or (ii),
9 determines that a reasonable basis exists to make a
10 finding that the employer has failed to comply with
11 the requirements under this subsection, the Sec-
12 retary shall provide interested parties with notice of
13 such determination and an opportunity for a hearing
14 in accordance with section 556 of title 5, United
15 States Code, not later than 60 days after the date
16 of such determination.”; and

17 (9) by adding at the end the following:

18 “(vii) If the Secretary of Labor, after
19 a hearing, finds that the employer has vio-
20 lated a requirement under this subsection,
21 the Secretary may impose a penalty pursu-
22 ant to subparagraph (C).”.

1 **SEC. 7. ADJUSTMENT OF STATUS FOR EMPLOYMENT-BASED**
2 **IMMIGRANTS.**

3 (a) ADJUSTMENT OF STATUS FOR EMPLOYMENT-
4 BASED IMMIGRANTS.—Section 245 of the Immigration
5 and Nationality Act (8 U.S.C. 1255) is amended by add-
6 ing at the end the following:

7 “(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-
8 BASED IMMIGRANTS.—

9 “(1) IN GENERAL.—Notwithstanding subsection
10 (a)(3), an alien (including the alien’s spouse or
11 child, if eligible to receive a visa under section
12 203(d)), may file an application for adjustment of
13 status if—

14 “(A) the alien—

15 “(i) is present in the United States
16 pursuant to a lawful admission as a non-
17 immigrant, other than a nonimmigrant de-
18 scribed in subparagraph (B), (C), (D), or
19 (S) of section 101(a)(15), section 212(l),
20 or section 217; and

21 “(ii) subject to subsection (k), is not
22 ineligible for adjustment of status under
23 subsection (c); and

24 “(B) not less than 2 years have elapsed
25 since the immigrant visa petition filed by or on

1 behalf of the alien under subparagraph (E) or
2 (F) of section 204(a)(1) was approved.

3 “(2) PROTECTION FOR CHILDREN.—The child
4 of a principal alien who files an application for ad-
5 justment of status under this subsection shall con-
6 tinue to qualify as a child for purposes of the appli-
7 cation, regardless of the child’s age or whether the
8 principal alien is deceased at the time an immigrant
9 visa becomes available.

10 “(3) TRAVEL AND EMPLOYMENT AUTHORIZA-
11 TION.—

12 “(A) ADVANCE PAROLE.—Applicants for
13 adjustment of status under this subsection shall
14 be eligible for advance parole under the same
15 terms and conditions as applicants for adjust-
16 ment of status under subsection (a).

17 “(B) EMPLOYMENT AUTHORIZATION.—

18 “(i) PRINCIPAL ALIEN.—Subject to
19 paragraph (4), a principal applicant for
20 adjustment of status under this subsection
21 shall be eligible for work authorization
22 under the same terms and conditions as
23 applicants for adjustment of status under
24 subsection (a).

1 “(ii) LIMITATIONS ON EMPLOYMENT
2 AUTHORIZATION FOR DEPENDENTS.—A
3 dependent alien who was neither author-
4 ized to work nor eligible to request work
5 authorization at the time an application for
6 adjustment of status is filed under this
7 subsection shall not be eligible to receive
8 work authorization due to the filing of
9 such application.

10 “(4) CONDITIONS ON ADJUSTMENT OF STATUS
11 AND EMPLOYMENT AUTHORIZATION FOR PRINCIPAL
12 ALIENS.—

13 “(A) IN GENERAL.—During the time an
14 application for adjustment of status under this
15 subsection is pending and until such time an
16 immigrant visa becomes available—

17 “(i) the terms and conditions of the
18 alien’s employment, including duties,
19 hours, and compensation, must be com-
20 mensurate with the terms and conditions
21 applicable to the employer’s similarly situ-
22 ated United States workers in the area of
23 employment, or if the employer does not
24 employ and has not recently employed
25 more than two such workers, the terms

1 and conditions of such employment must
2 be commensurate with the terms and con-
3 ditions applicable to other similarly situ-
4 ated United States workers in the area of
5 employment; and

6 “(ii) consistent with section 204(j), if
7 the alien changes positions or employers,
8 the new position is in the same or a similar
9 occupational classification as the job for
10 which the petition was filed.

11 “(B) SPECIAL FILING PROCEDURES.—An
12 application for adjustment of status filed by a
13 principal alien under this subsection shall be ac-
14 companied by—

15 “(i) a signed letter from the principal
16 alien’s current or prospective employer at-
17 testing that the terms and conditions of
18 the alien’s employment are commensurate
19 with the terms and conditions of employ-
20 ment for similarly situated United States
21 workers in the area of employment; and

22 “(ii) other information deemed nec-
23 essary by the Secretary of Homeland Secu-
24 rity to verify compliance with subpara-
25 graph (A).

1 “(C) APPLICATION FOR EMPLOYMENT AU-
2 THORIZATION.—

3 “(i) IN GENERAL.—An application for
4 employment authorization filed by a prin-
5 cipal applicant for adjustment of status
6 under this subsection shall be accompanied
7 by a Confirmation of Bona Fide Job Offer
8 or Portability (Form I-485 Supplement J,
9 or any successor form) attesting that—

10 “(I) the job offered in the immi-
11 grant visa petition remains a bona
12 fide job offer that the alien intends to
13 accept upon approval of the adjust-
14 ment of status application; or

15 “(II) the alien has accepted a
16 new full-time job in the same or a
17 similar occupational classification as
18 the job described in the approved im-
19 migrant visa petition.

20 “(ii) VALIDITY.—An employment au-
21 thorization document issued to a principal
22 alien who has filed an application for ad-
23 justment of status under this subsection
24 shall be valid for three years.

1 “(iii) RENEWAL.—Any request by a
2 principal alien to renew an employment au-
3 thorization document associated with such
4 alien’s application for adjustment of status
5 filed under this subsection shall be accom-
6 panied by the evidence described in sub-
7 paragraphs (B) and (C)(i).

8 “(5) DECISION.—

9 “(A) IN GENERAL.—An adjustment of sta-
10 tus application filed under paragraph (1) may
11 not be approved—

12 “(i) until the date on which an immi-
13 grant visa becomes available; and

14 “(ii) if the principal alien has not,
15 within the preceding 12 months, filed a
16 Confirmation of Bona Fide Job Offer or
17 Portability (Form I-485 Supplement J, or
18 any successor form).

19 “(B) REQUEST FOR EVIDENCE.—If at the
20 time an immigrant visa becomes available, a
21 Confirmation of Bona Fide Job Offer or Port-
22 ability (Form I-485 Supplement J, or any suc-
23 cessor form) has not been filed by the principal
24 alien within the preceding 12 months, the Sec-
25 retary of Homeland Security shall notify the

1 alien and provide instructions for submitting
2 such form.

3 “(C) NOTICE OF INTENT TO DENY.—If the
4 most recent Confirmation of Bona Fide Job
5 Offer or Portability (Form I–485 Supplement
6 J, or any successor form) or any prior form in-
7 dicates a lack of compliance with paragraph
8 (4)(A), the Secretary of Homeland Security
9 shall issue a notice of intent to deny the appli-
10 cation for adjustment of status and provide the
11 alien the opportunity to submit evidence of
12 compliance.

13 “(D) DENIAL.—An application for adjust-
14 ment of status under this subsection may be de-
15 nied if the alien fails to—

16 “(i) timely file a Confirmation of
17 Bona Fide Job Offer or Portability (Form
18 I–485 Supplement J, or any successor
19 form) in response to a request for evidence
20 issued under subparagraph (B); or

21 “(ii) establish, by a preponderance of
22 the evidence, compliance with paragraph
23 (4)(A).

24 “(6) FEES.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, the Secretary of Home-
3 land Security shall charge and collect a fee in
4 the amount of \$2,000 to process each Con-
5 firmation of Bona Fide Job Offer or Portability
6 (Form I-485 Supplement J, or any successor
7 form) filed under this subsection.

8 “(B) DEPOSIT AND USE OF FEES.—Fees
9 collected under subparagraph (A) shall be de-
10 posited and used as follows:

11 “(i) Fifty percent of such fees shall be
12 deposited in the Immigration Examinations
13 Fee Account established under section
14 286(m).

15 “(ii) Fifty percent of such fees shall
16 be deposited in the Treasury of the United
17 States as miscellaneous receipts.

18 “(7) EFFECTIVE DATE.—

19 “(A) The provisions of this subsection—

20 “(i) shall take effect one year after
21 the date of the enactment of the Equal Ac-
22 cess to Green cards for Legal Employment
23 Act of 2021; and

24 “(ii) except as provided in subpara-
25 graph (B), shall cease to have effect as of

1 the date that is nine years after the date
2 of the enactment of such Act.

3 “(B) This subsection shall continue in ef-
4 fect with respect to any alien who has filed an
5 application for adjustment of status under this
6 subsection any time prior to the date on which
7 this subsection otherwise ceases to have effect.

8 “(8) CLARIFICATIONS.—For purposes of this
9 subsection:

10 “(A) The term ‘similarly situated United
11 States workers’ includes United States workers
12 performing similar duties, subject to similar su-
13 pervision, and with similar educational back-
14 grounds, industry expertise, employment experi-
15 ence, levels of responsibility, and skill sets as
16 the alien in the same geographic area of em-
17 ployment as the alien.

18 “(B) The duties, hours, and compensation
19 of the alien are ‘commensurate’ with those of-
20 fered to United States workers in the same area
21 of employment if the employer can demonstrate
22 that the duties, hours, and compensation are
23 consistent with the range of such terms and
24 conditions the employer has offered or would

1 offer to similarly situated United States em-
2 ployees.”.

3 (b) CONFORMING AMENDMENT.—Section 245(k) of
4 the Immigration and Nationality Act (8 U.S.C. 1255(k))
5 is amended by adding “or (n)” after “pursuant to sub-
6 section (a)”.

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