CanAm Enterprises

The EB-5 Reform and Integrity Act of 2022 (RIA)

In effect as of March 2022

The U.S. Congress reinstated the EB-5 Immigrant Investor Visa Program on March 11th, 2022. With bipartisan support, the new EB-5 Reform and Integrity Act of 2022 added greater protections against fraud and national security weaknesses within the program, and promoted program integrity and oversight. The new legislation also raised the minimum investment amount from $500,000 to $800,000 USD, modified the TEA definition, and importantly, reauthorized the EB-5 Regional Center Program until 2027.

WHAT'S THE DIFFERENCE?

Before the new RIA, even if applicants lived in the United States with a valid visa, they were still required to first obtain the approval of their I-526 application before being able to seek a change in their status in the United States so they could enjoy the benefits of a green card.

RESERVED VISA SET-ASIDE

EB-5 Annual Global EB-5 Visa quota of 10,000. The new RIA stipulates that some visa quotas will be reserved from the total EB-5 visa quota each year, covering the following three categories of projects:

- **Rural TEA:** Reserve 20% of EB-5 visas for projects in rural areas (quantity 2,000)
- **High Unemployment:** Reserve 10% of EB-5 visas for projects in areas with a high unemployment rate (quantity 1,000)
- **Infrastructure:** Reserve 2% of EB-5 visas for infrastructure projects (quantity 200)

MINIMUM INVESTMENT AMOUNT

The new RIA revised the minimum investment amount for TEA area projects to $800,000, and set the minimum investment amount for non-TEA area projects to $1.05 million.

GRANDFATHER CLAUSE

The "Grandfather Clause" provides immigration protections for EB-5 investors who have already submitted their visa applications.

This clause stipulates that if the I-526E application is submitted before September 30, 2026, even if the EB-5 Regional Center Act becomes invalid in the future, the U.S. Department of Homeland Security should continue to process the EB-5 application and cannot suspend or reject it.

Resources: H.R.2471 - Consolidated Appropriations Act, 2022, https://www.congress.gov/bill/117th-congress/house-bill/2471/text

WHO CAN BENEFIT FROM CONCURRENT FILING?

Concurrent Filing is especially beneficial to international students in the United States and work visa holders who are waiting for their green cards to be scheduled. After obtaining a work permit, international students will not be restricted by majors and no longer need an employer's work visa sponsorship to find a job. Applicants with a work visa can immediately get rid of the restrictions of the work visa and look for better career opportunities. If the parents of foreign students studying in the United States are the main applicants, they can also obtain legal U.S. residence status immediately through identity conversion.

WHAT ARE THE ADVANTAGES OF CONCURRENTLY FILING?

With the I-485 acceptance receipt, the investor can legally live in the United States until the green card is approved. They need not return to their home country. Along with the I-485, the following two applications can be submitted:

- Employment Authorization (EAD), the right to work freely in the United States (I-765).
- Reentry Permit (AP), the right to freely enter and leave the United States (I-131).

CONCURRENT FILING

The new RIA allows EB-5 applicants who already hold a valid non-immigrant visa living in the United States to submit forms I-526E and I-485 (submitting two applications at the same time is called "concurrent filing").

INTEGRITY PROVISION

The new RIA includes new measures to protect investors from fraud and misuse of funds. It also provides tools for the Department of Homeland Security to prevent national security breaches.