

## **Border Security and Immigration Reform Act of 2007**

### **Title I**

*Title I requires the Secretary of Homeland Security to certify that the triggers are met before the Title IV (Guest Worker) and Title VI (Z visa ) programs can begin, with the exception of probationary status for Z workers and the programs for agricultural workers.*

- **Triggers include:**
  - **18,000 (CBP) Border Patrol hired**
  - **Construction of 200 miles of vehicle barriers and 370 miles of fencing**
  - **70 ground-based radar and camera towers along the southern border**
  - **Deployment of 4 Unmanned Aerial Vehicles and supporting systems**
  - **The ending of catch-and-release**
  - **Resources to detain up to 27,500 aliens per day on an annual basis**
  - **The use of secure and effective identification tools to prevent unauthorized work.**
  - **The receiving and processing and adjudicating of applications for Z status.**
  
- Title I also includes authorities and resources to augment border security including:
  - physical infrastructure along the border
  - additional field and investigative agents
  - comprehensive plans and studies of the border region
  - revisions to law enforcement techniques and enhanced authorities.

### **Title II**

*Title II provides for interior enforcement of immigration laws.*

- **The stiffening of laws and penalties relate to:**
  - **the detention of criminal aliens**
  - **the definition of aggravated felony**
  - **gang violence**
  - **passport, visa, and immigration fraud, including marriage fraud**
  
- Other provisions include language regarding:
  - Increased penalties for illegal entry and reentry
  - encouraging aliens to depart voluntarily
  - prohibiting aliens from possessing firearms
  - alternatives to detention
  - state and local law enforcement reimbursement and training
  - the streamlining of background checks for immigration status

### **Title III**

*Title III addresses workplace enforcement by increasing penalties, revising and making mandatory a system of electronic employment verification, and promoting information sharing.*

- **This Title designs a worksite enforcement system that relies on electronic employment verification and a reduced list of documents that may be presented to employers to prove identity and work eligibility.**
  - Also increases penalties significantly over current law for unlawful hiring, employment, and recordkeeping violations.
- **Verification of employees:** As of the date of enactment, employers in national security-related industries, industries involving critical infrastructure, and federal contractors may be required to electronically verify employees, including new hires and/or current employees, with additional employers or industries added after 6 months.
  - **All employers would be required to electronically verify new hires within 18 months of enactment, or on the date on which the Secretary certifies that the system is operational.**
  - Once the system is implemented, all employers would be required to verify all current employees within by 3 years after enactment.
- **Structure of the EEVS:** After the date of hire but no later than the first day of employment, the employer must transmit to the EEVS via the Internet the data that the employer has taken from the worker's identity and work eligibility documents.
- **Inconclusive determinations:** Where the EEVS cannot conclusively determine the status of a worker's eligibility, a further action notice is issued and the individual must contact the appropriate federal or state agency to initiate resolution of status and the individual continues to work while the agency resolves his or her status.
- **Final nonconfirmation:** If the employer has received a final non-confirmation regarding an individual, the employer must terminate the employment of the individual, unless the individual files an administrative appeal of a final non-confirmation notice within 15 days.
- **Data and Information Sharing:** The Commissioner of Social Security must information to the Secretary of DHS regarding data contained within the Social Security database as in relates to employment verification.
- **Fraud and tamper resistant social security cards:** Not later than 180 days after date of enactment, the Commissioner is required to begin work to administer and issue fraud-resistant, tamper-resistant Social Security cards.

#### Title IV

*Title IV establishes a new temporary Y worker program to address future labor needs of temporary foreign workers and discourage future illegal employment of undocumented individuals. The title also includes measures to protect the rights of U.S. and foreign workers and prevent the U.S. employer from abusing the program.*

- **Structure of new visa programs:** This title creates a new future temporary worker program for workers who are coming to the U.S. to perform temporary job that the U.S. employer is unable to fill. It provides for:

- non-seasonal Y temporary worker (Y-1 visa)
  - seasonal temporary worker
    - Y-2A for agricultural workers, sheepherder, goat herders, and dairy workers
    - Y-2B for non-agricultural workers; and
  - their spouses and minor children (Y-3 visa).
- **Matching Willing Workers with Willing Employers:** All Y workers must be matched to a “willing employers” through an electronic database in order to qualify for a Y worker visa.
  - **Families of Y visa holders:** can only accompany Y workers if the worker can:
    - show proof of valid medical insurance and
    - demonstrate that the wages of the principal Y nonimmigrant(s) are 150% above poverty level for the household size.
    - Spouses and children who do not qualify for Y-3 visa may be admitted under other nonimmigrant status.
  - **Period of admission:** A Y-1 worker can be admitted for a two year period that can be renewed twice if that worker spends a period of one year outside the United States between each admission.
    - A Y-1 accompanied by dependents is afforded a single two year visa, non-renewable.
    - Workers with Y-2A and Y-2B visa qualify for 10 month visas; no extensions may be granted.
  - **Permanent Bar:** Y worker who fails to timely depart is permanently barred from any future immigration benefit.
  - **Wage:** The employer must attest that the Y worker will be paid not less than the greater of the actual wage paid by the employer to all other similarly situated workers or the “prevailing competitive wage.”
  - **Numerical Limitation:** The Y-1 visa program has an initial cap of 400,000 with yearly adjustments based on market fluctuations.
    - There are no numerical limitations for Y-2A while the Y-2B visas are initially capped at 100,000 with yearly adjustment based on market fluctuations.
    - The market-based fluctuation is adjusted every 6 months during the fiscal year.
    - The Y-3 visa for spouses and minor children limit may not exceed 20% of annual limit for Y-1 visas.
    - A newly created Standing Commission will make recommendations to Congress regarding the Y visa numerical cap for each fiscal year following the initial year of the program

### **Title V**

*Title V restructures and rebalances the current system by which green cards are distributed.*

- **Rebalancing of Immigrant Visa Allocation:** Resets the number of family-based, family backlog, merit-based immigrants, and eventual Z immigration green cards.

- The family categories are less than under current law since several of the extended family categories are reduced, while the merit-based is increased over the current employment-based levels after the processing of the family-based backlog.
- An annual total of 440,000 visas are allotted to process the backlog of family-based categories.
- It is estimated that the family backlog cases can all be processed in 8 years.
- An annual total of 10,000 visas are set aside for exceptional Y workers.
- **Merit Based Points System:** The current employment based green card system will be replaced by a merit based points system.
- **Reducing Chain Migration and Permitting Petitions by Nationals:** Elimination and reconfiguring of the following family-based preference categories:
  - First: Unmarried Sons and Daughters of Citizens
  - Second: Unmarried Sons and Daughters of Permanent Residents other than spouses and minor children of permanent residents
  - Third: Married Sons and Daughters of Citizens
  - Fourth: Brothers and Sisters of Adult Citizens
  - Sets cap of 40,000 per fiscal year on category for parents of U.S. citizens.
  - Sets cap of 87,000 per fiscal year on the second preference category for spouses and children of permanent residents.
- **Elimination of Backlog:** If the family-based visa petition in the eliminated category is filed before May 1, 2005, the petition can be processed under the prior law.

### **Title VI**

*This title provides a new visa for most individuals currently living within the U.S. illegally.*

- **Creates a new four-year, renewable “Z” nonimmigrant visa to address the undocumented population within the U.S.** The visa is split up into three groups:
  - a principal or employed alien (Z-1),
  - the spouse or elderly parent of that alien (Z-2),
  - and the minor children of that alien (Z-3).
- **Cut off Date:** In order to be eligible for this visa, one must have been illegally present within the U.S. before January 1, 2007.
- **Fees and Penalties:** To apply, an alien seeking Z-1 status must be currently employed and pay fees and penalties totaling \$5,000 (less for derivative Z's) to be eligible for a green card under the merit-based system.
- **Probationary, the Permanent Z Status:** Once an applicant submits a completed application, fingerprints, and is cleared by one-day background checks he will receive probationary benefits which can eventually be converted to a Z nonimmigrant status after all background checks are clear and the triggers set forth in Title I are achieved.

- **LPR Status:** A Z-1 nonimmigrant may adjust status to lawful permanent residence after the family backlog under Title V is eliminated if the Z applicant:
  - Satisfies the merit requirements in the points schedule set forth in Title V.
  - files the application for adjustment in the Z-1's country of origin and
  - pays a penalty of \$4,000.
  
- **DREAM ACT:** Individuals under the age of 30 that were brought to the United States out of their own control as a minor are eligible to receive their green card after 3 years rather than 8.

### **Title VII**

*Title VII includes a number of miscellaneous provisions involving assimilation, including increased funding for the office of citizenship and integration (\$100M)*