

# COUNSEL

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A publication of Paschal Nwokocha Law Offices, LLC.

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## About Counsel

*A newsletter publication of Paschal Nwokocha Law Offices, LLC, Counsel is dedicated to the needs and interests of our clients and subscribers.*

*Each issue of Counsel explores specific areas of immigration law, which may be of personal or business interest to its readers.*

*Counsel does not constitute legal advice. Readers are urged to consult an attorney before acting on any information contained in this publication.*

## Our Mission

At Paschal Nwokocha Law Offices, our mission is to provide the highest quality professional, client-driven legal services to businesses and individuals at reasonable rates.

We believe the Immigration and Nationality laws of the United States should work for our clients, *not* against them. And we employ all available tools to seek the best possible solutions on their behalf.

## What Should I Know about the Immigration Reform Bill?

The ‘Gang of 8’ of United States Senators introduced the Border Security, Economic Opportunity, and Immigration Modernization Act on April 16, 2013. The 844 page [bill](#) has several commendable provisions and some that should be revised or modified. We continue to monitor the debate on our [blog](#) and through other media outlets. In this edition of counsel, we highlight the key provisions and provide information on what individuals can do in view of the proposed legislation. Please note that this is not yet the law of the land, and this survey is preliminary. Things may change as the bill goes through the legislative process. The bill, as introduced, has the following key provisions:

- The general overarching theme of the bill is to encourage employment-based immigration, as opposed to family-based immigration.
- Spouses and minor children of Permanent Residents will now be considered “immediate relatives,” meaning that these beneficiaries do not have a long waiting time and are not subject to quotas.
- Immediate relatives will be able to enter the U.S. at the same time with their “derivative beneficiaries”. This is as opposed to the current system where for example, when a United States citizen files for their parents, that parent cannot come with their minor children. This will spare families years of separation.
- The diversity visa lottery will be abolished effective 2015 - a huge set back to people from underrepresented countries (several African countries) who have used this as an avenue to come to the U.S.

- The FB-4 (brother and sisters of United States citizen) category will be abolished starting 18 months from when the bill becomes law. So, anyone who has been considering and postponing filing a petition for siblings in this category should do it now, so that those petitions will be grandfathered in. The beauty of this category is that the beneficiaries of these petitions can come in with their spouse and minor children.
- The FB-3 (married sons and daughters of United States citizens) will be restricted to those who are 30 years or younger. Any petitions received before the law's effective date will be grandfathered in.
- V visa is reintroduced. It allows some people to enter and remain in the United States to await the adjudication of their petition.
- Individuals who were ordered deported solely for unlawful presence can have their U.S. citizen or permanent resident spouse or child file a petition to help them return.
- The Immigration Judges will be once again granted latitude or discretionary powers to grant/approve cases where removal from the United States could result in hardship to the person or their family members.
- Individuals who made false claim to United States citizenship can now seek for waiver from deportation if they can show hardship to their family



## **Registered Provisional Immigrants (RPI)**

RPI is the path way to Citizenship.

Under the proposed bill, any person who has been in the United States as of December 2011 can apply for RPI status. Once in RPI status, the person can get a work permit, permission to travel overseas, and will remain in such status for about 6 years. After six years, RPIs can renew their status.

RPIs can apply for a Green Card after 10 years on such status and then can apply for citizenship after the 10<sup>th</sup> year.

To apply or renew RPI, applicants must:

- Pay a fine of \$500 in addition to filing fee to be determined by the USCIS;
- Complete and pass a background check;
- Pay any back taxes; and
- Not have a serious criminal record.

To be eligible to apply for a Green card after the 10<sup>th</sup> year, RPIs will have to:

- Pay a fine of \$1,000 in addition to the filing fee;
- Show that they have paid all required taxes; and
- Not have a serious criminal record.

For DACA beneficiaries, DREAMers and certain agricultural workers (*Blue Card holders*), the pathway to citizenship is abbreviated. After 5 years on RPI status, they can apply for Green Card status and citizenship soon thereafter.

### **Asylum Applicants—One Year Limit Lifted**

Since April 1996, asylum seekers were required to file their applications within one year of entry into the United States, except in a few circumstances. Under the proposed legislation, this sometimes draconian one-year time limit is removed. This is a great human rights victory.

## **Employment-based visa categories**

Under the newly proposed immigration bill, employment-based visa categories are significantly revamped and additional visas are made available to applicants:

- The per-country quota system will be eliminated;
- A huge portion of visa applicants will be exempt from the numerical limitations currently in place for employment-based visas. This includes spouses and children of applicants; outstanding researchers; certain physicians; and individuals with STEM (*Sciences, Technology, Engineering and Mathematics*) degrees from a U.S. university;
- The bill will make it easier for STEM graduates to petition for themselves, without needing employers;
- A merit-based point system will be created to allow for the immigration of more than 200,000 people each year;
- The H-1B cap will be significantly raised, and will be subject to modification depending on the job market;
- For the first time, employers will be required to post job opening notices on a government website before filing H-1B petitions;
- Two non-immigrant visa categories will be created: W - for temporary workers and X status for investors and entrepreneurs;
- EB-5 and Special Immigrant visas for Religious worker visa categories will be made permanent; and
- An E-3 visa category will be created for the Irish, with generous waiver provisions.



## Time to Take Action

It is time for advocates of Immigration Reform to engage the legislative branch. We urge all Counsel readers to contact their representatives and express their opinion on this crucial legislation; urge them to support the bill that has been introduced by The Gang of 8. It marks a great step in the right direction. It should be passed this year. Readers should further urge their representatives to push for changes to improve the bill. Some provisions that should be changed include:

- **Moving the cut-off date for eligibility for RPI** or regularization of status from December 2011 to the date the legislation is enacted. This will ensure that the Immigration problem is comprehensively solved without creating another class of illegal immigrants (entrants post Decembers 2011) that the country will have to regularize in the future;
- **The reform should not repeal the DV lottery.** The Diversity Visa Lottery has served this country very well and helped address the historical bias in the U.S. immigration laws dating back to before the 1921 Emergency Quota Act. For a long time, individuals from certain countries were not welcome to the United States, including Africans, Asians, Irish and Catholic Germans. The lottery system was conceived to address the sins of the past. It has served Africa well. Preserving the DV lottery is both a Civil Rights imperative and National Security tool. Over the years, some conservatives have targeted it for elimination; we should not let it happen;
- STEM degrees should be expanded to include Bachelors of Science in nursing.

## CBP Goes Digital on I-94 Card

Starting from May 2013 and in all border entries, the Customs and Border Patrol (CBP) will cease issuance of paper I-94 cards in most situations. The CBP officers, however, will continue to stamp entry dates and how long the person is permitted to stay in the United States in the passport.

Travelers who need the print-out of their I-94 card in order to apply for benefits may do so by going to the CBP's designated [web portal](#).

## Defense of Marriage Act (DOMA) in Immigration context

On April 19, 2013, a Federal District Court in California issued a [landmark decision](#) that will have repercussions for gays and lesbians in the United States. The Court certified a class; finding that petitioners in the DOMA action have standing to challenge its constitutionality. The Court defined the class as "all members of lawful same-sex marriage who have been denied lawful status or related benefits" under DOMA.

Individuals that meet the class definition are strongly encouraged to contact the petitioning counsel – The Center for Human Rights and Constitutional Law, Case #: [SACV12-1137-JVS\(MLGx\)](#):

- We will continue to monitor progress on this case and provide updates in Counsel.

Update. The U.S. Immigration Service has expanded the specific categories of qualifying criminal activities that will make applicants eligible for a U-visa, as victims of crime, to include the crimes of: Fraud, Stalking or similar crimes of that nature.

Legislation has continued to advance towards the MN House Floor on a bill that will allow immigrants without status to obtain a driver's license. Current state law requires license applicants to show they are U.S. citizens or have legal status. The bill will now head to the House Ways and Means Committee. If signed into law, MN would become the 5th state to allow licenses for immigrants without status.

- We will continue to monitor progress on this issue and provide updates in Counsel.



## Did you know?...

- That **H-1B Visas** were used up within the first week of their availability in 2013. This included 65,000 and 20,000. Yet many employers and thousands of employees were not selected in what's now become known as the 'H-1B lottery'. That is certainly not good for businesses.

The good news, however, is that it appears the U.S. economy and the demand for foreign talents are getting to back to pre-Great Recession levels.

Contact us for more information.

## Reader's Corner

Readers are encouraged to send questions and comments to Counsel at Paschal Nwokocha Law Offices.

To subscribe to or unsubscribe from Counsel, or to receive copies of Counsel for your business, please send your request to:

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## Disclaimer

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### **Recent Success Story**

Recently, a family member of a prospective client from a repressive Middle Eastern country called our office indicating that their relative was about to boarding a flight from their home country to Minneapolis. Since she did not have proper entry documents we knew that she would definitely run into problems at the airport. We immediately worked with the CBP, informing them of the issues and how the matter should be addressed. The client was paroled into the country (instead of being returned on the next flight or detained) but placed in immigration removal proceedings.

We worked with the family to prepare and file a petition showing why our client should not be returned to the repressive government in her native country. The Immigration Judge agreed with us and granted the petition, thus giving the young computer science graduate the opportunity to realize her potential in the United States.

*If you need legal services relating to immigration or other legal issues and would like to schedule a consultation...*

**Call us for an appointment**

**612.465.0060**

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