

## SENATE POISED TO OVERHAUL CURRENT IMMIGRATION SYSTEM



by

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The U.S. Senate began debating a massive immigration reform bill known as the “Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007” (S. 1348) on Monday, May 21, 2007. If it becomes law, the bill will dramatically overhaul the current U.S. immigration system.

The “Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007” was crafted in closed-door meetings over the past several months by a group of 12 Senators (both Republicans and Democrats) along with members of the President’s Cabinet. The architects of the bill acknowledge that the bill is very controversial and not likely to please everyone. Indeed, there are portions of the bill that are very good while other portions are extremely bad for immigrants.

The bill is over 600 pages in length and is broken into seven (7) major sections. It includes a number of radical proposals, including the following:

- Creation of a “Z Visa” program that would legalize the status of many of the estimated 12 million illegal immigrants currently living in the United States;
- Creation of a “Y Visa” program that would provide a temporary worker program whereby workers could legally enter the United States to work for 2-year periods at a time;
- Elimination of the Family 1<sup>st</sup> Preference (unmarried sons and daughters over age 21 of U.S. citizens), 2B Preference (unmarried sons and daughters over age 21 of permanent residents), 3<sup>rd</sup> Preference (married sons and daughters over age 21 of U.S. citizens) and 4<sup>th</sup> Preference (brothers and sisters of U.S. citizens).
- Eliminating the ability of U.S. Citizens to file for their parents as immediate relative and requiring them to file as part of a preference category with annual limits of only 40,000 green cards.
- Elimination of the labor certification system and employment-based immigrant visa preference categories (EB-1, EB-2, EB-3, etc.) in favor of a point system

which values education over family connections and does not necessarily require an offer of employment.

- Elimination of dual intent for H-1B visa holders.
- Adding a fee of up to \$3,500 per H-1B Visa (\$1750 if the H-1B company has less than 25 employees) on top of the already-high H-1B fees.
- Requiring mandatory participation of all employers over a period of time in an employee eligibility verification system (will require employers to verify the work eligibility of employees through a computer-based system designed to detect fraud).

By far, the most widely-discussed provision in the bill is the Z Visa Status that is proposed for the undocumented / illegal immigrant community. Z status will provide legal status (including work authorization and travel permission) for those undocumented immigrants who meet the following criteria:

- (1) Physically present in the United States;
- (2) Continuously present in the United States since January 1, 2007 in an unlawful status;
- (3) Employed (working);
- (4) Seeks to continue working or going to school;
- (5) Passes a criminal record check;
- (6) Files an application during the filing period; and
- (7) Pays the required application fees and fines.

It is possible that Z visa immigrants would have to pay back taxes. Some of the existing grounds of inadmissibility under INA Section 212 would also be waived.

As it stands now, eligible immigrants will be able to get probationary Z status while certain required border security measures are put into place. Once it is certified that the required border security measures have been put into place (which would likely take at least 18 months), then Z visa status could be awarded to those who meet the criteria. Ultimately, Z visa holders would be able to apply for permanent resident status (assuming they continue working in order to maintain Z status) after the current immigrant visa backlogs are reduced. This means that Z visa holders would go to the back of the line and would not be able to file for their green cards until all those already in line for immigrant visas are processed. To get the green card, the current version of the bill requires a "touchback" provision whereby eligible Z visa holders would be required to depart the United States and apply for the green card from outside the United States.

As noted above, this bill is only a proposal at this point in time. It was introduced in the Senate in mid-May and was debated in the Senate the week before Memorial Day. The Senate is currently on a 1-week recess for the Memorial Day holiday and will resume debate on Monday, June 4, 2007. Debate is expected throughout the week of June 4,

2007 and a final vote in the Senate is expected by Friday, June 8, 2007. Approval by the Senate would be the first step.

If the bill is passed by the Senate, it will then be up to the House of Representatives to introduce its own immigration bill. It is unclear whether the House of Representatives will introduce a bill or, if it does, what type of bill that would be introduced. Assuming the House of Representatives does in fact introduce a bill that is different from any bill that the Senate passes, there will need to be compromise discussions between the Senate and House of Representatives in order to resolve any differences in the two bills. As a result, if comprehensive immigration reform legislation is passed this year, the exact details of the legislation cannot yet be determined.

We will monitor the progress of this important legislation and analyze it in greater detail in our firm's June newsletter. Not yet a subscriber to our free newsletter? Visit [www.longchangonline.com](http://www.longchangonline.com) to subscribe and receive Long, Chang & Associates, L.L.P.'s free immigration newsletter.

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