

108TH CONGRESS
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H. R. 5402

To provide for immigration relief in the case of certain immigrants who are innocent victims of immigration fraud.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2004

Mr. HONDA (for himself, Mr. MORAN of Virginia, Ms. LEE, Mr. CROWLEY, Mr. EVANS, Ms. LINDA T. SÁNCHEZ of California, Mr. GEORGE MILLER of California, Ms. BORDALLO, Mr. MEEKS of New York, Mr. LAMPSON, Mr. GREEN of Texas, Mr. SCHIFF, Mr. CAPUANO, Mr. GRIJALVA, Ms. ESHOO, Ms. SCHAKOWSKY, and Ms. LOFGREN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for immigration relief in the case of certain immigrants who are innocent victims of immigration fraud.

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

3 **SECTION 1. IMMIGRATION RELIEF FOR INNOCENT VICTIMS**
4 **OF IMMIGRATION FRAUD.**

5 (a) IN GENERAL.—

6 (1) RELIEF UPON APPROVAL OF APPLICA-
7 TION.—If an alien, upon application to the Secretary
8 of Homeland Security, establishes to the satisfaction

1 of the Secretary that such alien is an eligible alien
2 (as defined in subsection (b)) and is, but for the
3 specified immigration fraud, admissible to the
4 United States as an immigrant and is not removable
5 from the United States, the Secretary shall provide
6 immigration relief for such alien under subsection
7 (c).

8 (2) RELIEF PENDING APPROVAL.—In the case
9 of an eligible alien, the Secretary shall suspend any
10 pending proceedings providing for revocation of ad-
11 justment of status, revocation of naturalization, or
12 removal with respect to such eligible alien in order
13 to provide such alien with a reasonable opportunity
14 to apply for immigration relief under this section
15 and during the pendency of the application for such
16 relief.

17 (b) ELIGIBLE ALIEN, SPECIFIED IMMIGRATION
18 FRAUD DEFINED.—For purposes of this section:

19 (1) ELIGIBLE ALIEN.—The term “eligible
20 alien” means an alien—

21 (A) who obtained status as a non-
22 immigrant on or after January 1, 1980, and
23 who, at the time of obtaining such status, was
24 a national of the Republic of Korea;

1 (B) who applied, before January 1, 1999,
2 through one or more immigration brokers for
3 adjustment of such status to that of the status
4 of an alien lawfully admitted to the United
5 States for permanent residence, and who ap-
6 plied through the Immigration and Naturaliza-
7 tion office located in San Jose, California;

8 (C) whose application for adjustment of
9 status described in subparagraph (B) was ap-
10 proved as a result of bribery by such immigra-
11 tion brokers of a supervisor of the Immigration
12 and Naturalization Service for such office; and

13 (D) who had no actual knowledge of such
14 fraud at the time of such adjustment.

15 (2) TREATMENT OF SPOUSES AND CHIL-
16 DREN.—Such term includes an alien who obtained
17 lawful permanent resident status as the spouse or
18 child of an eligible alien described in paragraph (1).

19 (3) SPECIFIED IMMIGRATION FRAUD.—The
20 term “specified immigration fraud” means the brib-
21 ery described in paragraph (1)(C).

22 (c) FORM OF IMMIGRATION RELIEF.—

23 (1) IN GENERAL.—If an application of an eligi-
24 ble alien under subsection (a) is approved, then—

1 (A) the specified immigration fraud shall
2 not be considered in determining the admissi-
3 bility or removeability of such alien; and

4 (B) the Secretary shall provide for the res-
5 toration of the alien's status as if the original
6 adjustment of status described in subsection
7 (b)(1)(C) had been lawful, in accordance with
8 the succeeding provisions of this subsection.

9 (2) RESTORATION OF STATUS TO LAWFUL PER-
10 MANENT RESIDENT.—In the case of an approved ap-
11 plication for an alien whose adjustment of status to
12 lawful permanent resident status was rescinded sole-
13 ly as a result of the specified immigration fraud, the
14 Secretary shall vitiate such rescission and shall re-
15 store the status of such alien to that of an alien law-
16 fully admitted for permanent residence. Such res-
17 toration shall be effective as of the date of such re-
18 scission.

19 (3) RESTORATION OF NATURALIZATION.—In
20 the case of an eligible alien who has been naturalized
21 as a citizen of the United States and whose natu-
22 ralization was revoked solely as a result of the speci-
23 fied immigration fraud, the Secretary shall vitiate
24 such revocation and shall restore such citizenship

1 status to such alien. Such restoration shall be effective as of the date of such revocation.

3 (4) PAROLE INTO THE UNITED STATES FOR ELIGIBLE ALIENS WHO HAVE DEPARTED.—In the case of an eligible alien who has been removed, or has voluntarily departed, from the United States in connection with charges relating to specified immigration fraud, the Secretary shall parole such alien into the United States for the purpose of filing an application for immigration relief under this section.

11 (d) PROCEDURES AND DEFINITIONS.—

12 (1) PROCEDURES FOR APPLICATION.—An alien seeking immigration relief under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The Secretary shall not charge such alien a fee in connection with such application.

19 (2) NO REDUCTION IN NUMBER OF IMMIGRANT VISAS AVAILABLE.—The Secretary of State shall not reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) if an application of an eligible alien for immigration relief under this section is approved.

1 (3) APPLICATION OF OTHER DEFINITIONS.—

2 For purposes of this section and except as otherwise
3 specifically provided, the term “Secretary ” means
4 the Secretary of Homeland Security and the defini-
5 tions contained in the Immigration and Nationality
6 Act shall apply in the administration of this section.
7 Nothing in this section shall be construed to repeal,
8 amend, alter, modify, affect, or restrict the powers,
9 duties, functions, or authority of the Secretary in
10 the administration and enforcement of such Act or
11 any other law relating to immigration, nationality, or
12 naturalization. The fact that an alien may be eligible
13 for immigration relief under this section shall not
14 preclude such alien from seeking immigration relief
15 under any other provision of law for which such
16 alien may be eligible.

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