

113TH CONGRESS
2D SESSION

H. R. 5378

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2014

Ms. SINEMA (for herself and Mr. VALADAO) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

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. SHORT TITLE.**

4 This Act may be cited as the “StartUp Act of 2014”.

5 **SEC. 2. STARTUP VISAS.**

6 (a) IN GENERAL.—Section 203(b) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 203(b)) is amended—

8 (1) by redesignating paragraph (6) as para-
9 graph (7); and

1 (2) by inserting after paragraph (5) the fol-
2 lowing:

3 “(6) SPONSORED ENTREPRENEURS.—

4 “(A) IN GENERAL.—StartUp visas shall be
5 made available, from the number of visas allo-
6 cated under paragraph (5), to qualified immi-
7 grant entrepreneurs—

8 “(i)(I) who have proven that a quali-
9 fied venture capitalist or a qualified super
10 angel investor, as determined by the Sec-
11 retary of Homeland Security, has invested
12 not less than \$100,000 on behalf of each
13 such entrepreneur; and

14 “(II) whose commercial activities will,
15 during the 2-year period beginning on the
16 date on which the visa is issued under this
17 subparagraph—

18 “(aa) create not fewer than 5
19 new full-time jobs in the United
20 States employing people other than
21 the immigrant’s spouse, sons, or
22 daughters;

23 “(bb) raise not less than
24 \$500,000 in capital investment in fur-

1 therance of a commercial entity based
2 in the United States; or

3 “(cc) generate not less than
4 \$500,000 in revenue;

5 “(ii)(I) who—

6 “(aa) hold an unexpired H1-B
7 visa; or

8 “(bb) have completed a graduate
9 level degree in science, technology, en-
10 gineering, math, computer science, or
11 other relevant academic discipline
12 from an accredited United States col-
13 lege, university, or other institution of
14 higher education;

15 “(II) who demonstrate—

16 “(aa) annual income of not less
17 than 250 percent of the Federal pov-
18 erty level; or

19 “(bb) the possession of assets
20 equivalent to not less than 2 years of
21 income at 250 percent of the Federal
22 poverty level; and

23 “(III) who have proven that a quali-
24 fied venture capitalist or a qualified super
25 angel investor, as determined by the Sec-

1 retary of Homeland Security, has invested
2 not less than \$20,000 on behalf of each
3 such entrepreneur; or

4 “(iii) who have a controlling interest
5 in a foreign company—

6 “(I) that has generated, during
7 the most recent 12-month period, not
8 less than \$100,000 in revenue from
9 sales in the United States; and

10 “(II) whose commercial activities,
11 during the 2-year period beginning on
12 the date on which the visa is issued
13 under this subparagraph, will—

14 “(aa) create not fewer than
15 3 new full-time jobs in the
16 United States that employ people
17 other than the immigrant’s
18 spouse, sons, or daughters;

19 “(bb) raise not less than
20 \$100,000 in capital investment in
21 furtherance of a commercial enti-
22 ty based in the United States; or

23 “(cc) generate not less than
24 \$100,000 in revenue.

1 “(B) REVOCATION.—If the Secretary of
2 Homeland Security determines that the com-
3 mercial activities of an alien who received a
4 StartUp visa pursuant to subparagraph
5 (A)(i)(II) fail to meet the requirements under
6 such subparagraph, the Secretary shall, not
7 later than 1 year after the end of the applicable
8 2-year period described in such subparagraph—

9 “(i) revoke such visa; and

10 “(ii) notify the alien that he or she—

11 “(I) may voluntarily depart from
12 the United States in accordance to
13 section 240B; or

14 “(II) will be subject to removal
15 proceedings under section 240 if the
16 alien does not depart from the United
17 States not later than 6 months after
18 receiving such notification.

19 “(C) DEFINITIONS.—In this paragraph:

20 “(i) QUALIFIED SUPER ANGEL INVES-
21 TOR.—The term ‘qualified super angel in-
22 vestor’ means an individual who—

23 “(I) is an accredited investor (as
24 defined in section 230.501(a) of title
25 17, Code of Federal Regulations);

1 “(II) is a United States citizen;
2 and

3 “(III) has made at least 2 equity
4 investments of not less than \$50,000
5 in each of the previous 3 years.

6 “(ii) QUALIFIED VENTURE CAPI-
7 TALIST.—The term ‘qualified venture capi-
8 talist’ means an entity that—

9 “(I) is classified as a ‘venture
10 capital operating company’ under sec-
11 tion 2510.3–101(d) of title 29, Code
12 of Federal Regulations;

13 “(II) is based in the United
14 States;

15 “(III) is comprised of partners,
16 the majority of whom are United
17 States citizens;

18 “(IV) has capital commitments of
19 not less than \$10,000,000;

20 “(V) has been operating for at
21 least 2 years; and

22 “(VI) has made at least 2 invest-
23 ments of not less than \$500,000 dur-
24 ing each of the most recent 2 years.”.

1 (b) CONDITIONAL PERMANENT RESIDENT STA-
2 TUS.—Section 216A of the Immigration and Nationality
3 Act (8 U.S.C. 1186b) is amended—

4 (1) by striking “Attorney General” each place
5 such term appears and inserting “Secretary of
6 Homeland Security”;

7 (2) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) by striking “(as defined in sub-
10 section (f)(1))” and inserting “, sponsored
11 entrepreneur”; and

12 (ii) by striking “(as defined in sub-
13 section (f)(2)) shall” and inserting “shall
14 each”; and

15 (B) in paragraph (2)(A), by inserting
16 “sponsored entrepreneur,” after “alien entre-
17 preneur,”;

18 (3) in subsection (b), by adding at the end the
19 following:

20 “(3) SPONSORED ENTREPRENEURS.—The Sec-
21 retary of Homeland Security shall terminate the per-
22 manent resident status of a sponsored entrepreneur
23 and the alien spouse and children of such entre-
24 preneur if the Secretary determines, not later than

1 3 years after the date on which such permanent resi-
2 dent status was conferred, that—

3 “(A) the qualified venture capitalist or
4 qualified super angel investor who sponsored
5 the entrepreneur failed to meet the investment
6 requirements under section 203(b)(6)(A)(i); or

7 “(B) the entrepreneur failed to meet the
8 job creation, capital investment, or revenue gen-
9 eration requirements under section
10 203(b)(6)(A)(ii).”;

11 (4) in subsection (c)—

12 (A) in paragraph (1)—

13 (i) in the matter preceding subpara-
14 graph (A), by inserting “sponsored entre-
15 preneur,” after “alien entrepreneur,”; and

16 (ii) by striking “alien entrepreneur
17 must” each place such term appears and
18 inserting “entrepreneur shall”; and

19 (B) in paragraph (3)—

20 (i) in subparagraph (A)(ii), by insert-
21 ing “or sponsored entrepreneur” after
22 “alien entrepreneur”; and

23 (ii) in subparagraph (C), by inserting
24 “sponsored entrepreneur,” after “alien en-
25 trepreneur”;

1 (5) in subsection (d)(1)—

2 (A) in the matter preceding subparagraph
3 (A), by striking “alien” and inserting “alien en-
4 trepreneur or sponsored entrepreneur, as appli-
5 cable”;

6 (B) in clause (i), by striking “invested, or
7 is actively in the process of investing,” and in-
8 serting “has invested, is actively in the process
9 of investing, or has been sponsored by a quali-
10 fied super angel investor or qualified venture
11 capitalist who has invested,”; and

12 (C) in clause (ii), by inserting “or
13 203(b)(6), as applicable” before the period at
14 the end; and

15 (6) in subsection (f), by adding at the end the
16 following:

17 “(4) The term ‘sponsored entrepreneur’ means
18 an alien who obtains the status of an alien lawfully
19 admitted for permanent residence under section
20 203(b)(6).”.

21 **SEC. 3. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

22 (a) IN GENERAL.—Not later than 2 years after the
23 date of the enactment of this Act, the Comptroller General
24 of the United States shall submit a report to Congress
25 on the StartUp Visa Program, authorized under section

1 203(b)(6) of the Immigration and Nationality Act, as
2 added by section 2.

3 (b) CONTENTS.—The report described in subsection
4 (a) shall include information regarding—

5 (1) the number of immigrant entrepreneurs who
6 have received a visa under the immigrant entre-
7 preneurs program established under section
8 203(b)(6) of the Immigration and Nationality Act,
9 listed by country of origin;

10 (2) the localities in which such immigrant en-
11 trepreneurs have initially settled;

12 (3) whether such immigrant entrepreneurs gen-
13 erally remain in the localities in which they initially
14 settle;

15 (4) the types of commercial enterprises that
16 such immigrant entrepreneurs have established; and

17 (5) the types and number of jobs created by
18 such immigrant entrepreneurs.

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