GCI

U.S. Immigration and Nationality Law & Global Migration

# Gulf Coast Immigration
# Quarterly Business Immigration Newsletter May 2014

The second 2014 quarterly GCI Newsletter includes:

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Please click the following link to download the May 2014 Business Immigration Newsletter published by the Gulf Coast Immigration (GCI). http://www.gcimmigration.com/news-1/monthly-weekly-alert/

**Gulf Coast Immigration** was founded to meet the growing need for comprehensive services in all aspects of immigration, including nationality law, and domestic and international legal resources for both American and foreign companies and individuals in the southern Gulf Coast region. It handles both employment- and family-based immigrant and non-immigrant visa petitions and applications with a subspecialty focusing on the U.S. Immigrant Investor Program (EB-5 Program). It also provides resources on global migration for 34 countries to assist international companies in managing the immigration process for their employees worldwide.

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## State EB-5 Program: Michigan and Vermont

Michigan became the second state (after Vermont) in the nation to manage and operate its own Regional Center approved by the United States Citizenship and Immigration Services (USCIS) for an immigrant visa program (EB-5 Program).

The Michigan center will work in conjunction with programs which try to encourage foreign investment in Michigan as well as keeping foreign students who study and graduate from state universities to stay and work in the state. This intensified immigration efforts, which are expected to comport with the Michigan Economic Development Corp.'s trade missions around the globe.

The State of Vermont Regional Center was established in 1997. The State Agency of Commerce and Community Development (VACCD) operates and supervises its EB-5 projects. In other worlds, the State approves each project and is responsible for continual EB5 compliance. The entire state (except metro areas) is designated a targeted employment area

(TEA).

**What is EB-5 Immigrant Investment Visa Program?**

The federal EB-5 visa program is designed to provide legal permanent residents (green cards) and a path to citizenship for would-be immigrants who invest at least $1,000,000 in a qualified U.S. business and create 10 new full-time jobs as a direct result of the investment. The minimum investment is lowered from $1 million to $500,000.00 if the foreign investment is made in a business which is located in a rural or high-unemployment target area. Qualifying immigrants are not required to live in the same state they invest in. The EB-5 visa program is still a developing area of immigration law and has become one of the best options for foreign entrepreneurs who wish to immigrate to the U.S.

**Direct Investment vs. Regional Center Investment**

There are two ways a foreign investor can make an EB-5 investment depending on how actively an investor wants to participate: Direct Investment and Regional Center Investment. Direct investment is usually for those who want to be involved in day-to-day management or running an active business. A Regional Center investment involves minimal management requirements. Foreign investors in a Regional Center project are not required to live in the place of investment; rather, they can live wherever they wish in the U.S.

Most importantly, a Regional Center investment counts both indirect and direct jobs so it allows the investor to qualify by proving a combination of 10 direct and/or indirect employees, while a Direct Investment only counts jobs that were created directly as a result of the investment. Because of these advantages of Regional Center investments, over 90% of EB-5 investments are made through Regional Centers into a rural or high-unemployment target area-based projects.

**Regional Center and Government Involvement**

Government involvement in EB-5 ranges from no involvement, to support of private regional centers through education and letters of support, to directly operating Regional Centers either solely or via public-private partnerships. About a half of the highly active Regional Centers have direct government involvement at either the local or state level. For example, Hawaii, Iowa, Pennsylvania, South Dakota, the County of Los Angeles, and the City of New Orleans have developed EB-5 projects in several industry sectors with strong indications of expansion, growing employment needs, and high return on investments.

Nationally, there are over 470 EB-5 regional centers working to connect immigrants with local investment opportunities, according to USCIS. However, Vermont and Michigan are the only states to sponsor its own statewide Regional Center. Further, about only 10% of the Regional Centers are regarded as fully operational. Most of those fully operational Regional Centers have some level of state or city government involvement and those highly active Regional Centers have direct government involvement in the operation at either the local or state level.

When state and/or municipal government is involved, diversity of projects in a variety of industries is possible, particularly targeting rural areas to generate a sustained pipeline of projects that benefit the entire state. Further, the track records of Regional Centers with direct government involvement indicates that State or City affiliation provides many benefits including credibility, accountability, oversight, monitoring, continual EB-5 compliance, diversity of projects, and faster approvals of EB-5 visas. Even when governments are not directly involved in Regional Center operation, many still choose to support EB-5 Regional Centers in other ways.

**EB 5 Industries**

EB5 Projects have been developed in  industries including but not limited to:

- Agriculture & Food Processing
- Alternative Energy
- Airport Development
- Construction
- Energy
- Harbor, Marine, and Coastal Rebuilding
- Health Care
- Health Services
- Heavy Manufacturing
- Higher Education
- Light Manufacturing
- Lodging, Hospitality, and Restaurants
- Manufacturing and Trade
- Motion Picture, Film, and Arts
- Port Redevelopment
- Public Transit Improvements
- Resort Industry
- Retail, Entertainment, and Gaming
- Schools
- Service Industry
- Shipyard Development
- Technology
- Tourism
- Transportation System
- Travel
- Universities

**The EB-5 Visa Usage and Job Creation**

In 1993, Congress allocated approximately 10,000 visas annually for EB-5 immigrant investors and their qualified family members but the program was underutilized due to issues and concerns about the program, including fraud and lack of established regulations. However, as the program is being stabilized and developed, the usage has dramatically increased. In FY 2011, for example, a total of 3,463 EB-5 visas were used and in FY 2012, a total of 7,641 EB-5 visas were issued. In FY 2013, a total of 8,567 EB-5 visas were issued.  In just the first couple

of months of FY 2014, USCIS has already received more than 7,000 EB-5 Visas applications. That number is up 50.2% in the same period as last year.

Foreign investors' interest in the EB program is spreading not just in Asia, but from all corners of the globe: China, South Korea, Britain/Northern Ireland, India, Iran, Mexico, Canada, and Russia. China accounted for more than over 80%, compared to just 10% a decade ago, and South Korea accounted for over 10% of all EB-5 visas worldwide in recent years. Last year, nearly 6,900 visas were issued for Chinese nationals. EB-5 immigrant investors from all corners of the globe have provided an important alternative source of financing, benefiting projects in the U.S. – from Brooklyn, New York's Atlantic Yards real estate developmentto a North Dakota factory which makes biodegradable food containers, to Vermont's Jay Peak Resort improvements project.

Vermont's Jay Peak Resort EB-5 project has attracted $250MM in foreign investment and has created more than 5000 jobs. By 2012, the City of Philadelphia had completed 23 EB-5 projects with foreign EB-5 investments of $390MM and created 5,830 new jobs. South Dakota, in 2006, attracted $50MM in foreign capital, which created over 1000 jobs for its expansion of a turkey processing plant and, in 2007, attracted $100MM for construction of a new gas power plant, which created over 2000 jobs.

The EB-5 program is advantageous for all concerned: job seekers, developers, immigrants, the economy, governments etc., and provides involved governments with an alternative vehicle to attract NEW foreign capital, which they would otherwise not have been able to acquire.

If you have questions about the EB-5 Program, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

**H-1B Highly Skilled Worker Program**

The H-1B visa is a temporary non-immigrant employment visa for highly educated foreign professionals in "specialty occupations" that requires at least a bachelor's degree or the equivalent. The visa is valid for three years with the option to renew for an additional three years for a total of six years. H-1B employers may sponsor H-1B workers for immigrant visas (green cards). The H-1B visa is currently capped at 65,000 per year, with 20,000 additional visas for foreign professionals who graduate with a Master's or Doctorate from a U.S. university. In recent years, the limit has been reached days after the visas are made available (April 1 of each year) as the number of U.S. employers seeking highly skilled foreign professionals has drastically increased and far outstripped the limited pool of H-1B visas available.

2012 was the first year the cap was reached on "the first day" since 2008. Since then, the cap has been reached on "the first day," which includes the first 5 business days from April 1st. The cap for Fiscal Year (FY) 2014 was reached on April 5, 2013 when United States Citizenship and Immigration Services (USCIS) received approximately 124,000 H-1B petitions, including petitions filed for the advanced degree exemption. For Fiscal Year (FY) 2015, USCIS has received more than 172,000 H-1B petitions, including petitions filed for the advanced degree

exemption thus reaching the cap (annual numerical limit for cap-subject H-1B petitions) from U.S. employers on April 7, 2014.

Both last and this year, USCIS conducted the selection process or "lottery" for advanced degree exemption petitions first for 20,000 visas and all advanced degree petitions not selected were part of the random selection process for the 65,000 cap. Petitioners, U.S. employers, and foreign workers will only know if their petitions were selected under the cap when they receive a receipt notice that the H-1B petition is being adjudicated or, for petitions not randomly selected, they will receive a rejection notice for the petition with the filing fees returned.

Understanding the H-1B process is an important way to recognize the vital economic role higher-skilled immigration plays in growing our economy and creating new opportunities for native and foreign-born workers alike.

If you have questions about the H-1B Program, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

**H-2B Non-agricultural Worker Program and Small & Seasonal Business**

Over the last several years, there have been significant regulatory and proposed changes, and litigation relating to the adjudication of the Application for Temporary Employment Certification for the H-2B Program with DOL. The most recent was made early this year when the President signed into law the Consolidated Appropriations Act of 2014 (the "2014 Appropriations Act"), Pub. L. 113- 76, which includes a provision permitting staggered entry of H-2B workers employed by employers in the seafood industry under certain conditions. This provision expires on September 30, 2014. Seafood is defined as fresh or saltwater finfish, crustaceans, other forms of aquatic animal life, including, but not limited to, alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals, and all mollusks.

All employers submitting an H-2B Application for Temporary Employment Certification must accurately indicate their temporary need, including the starting and ending dates of need for the period they intend to employ H-2B nonimmigrant workers. However, the 2014 Appropriations Act permits employers in the seafood industry to bring into the United States, in accordance with an approved H-2B petition, nonimmigrant workers at any time during the 120-day period on or after the employer's certified start date of need if certain conditions are met.

There are only a few avenues for U.S. employers to access essential workers in those instances in which no U.S. workers are available. The H-2B non-agricultural temporary worker program is one of them with an annual restrictive cap of 66,000 visas. The H-2B program allows U.S. employers to hire foreign nationals to fill temporary non-agricultural, seasonal, or short-term jobs such as restaurant workers, retail clerks, carpenters, plumbers, roofers, manufacturing line workers, hotel service workers, food production workers, landscape workers, and health care aides when they cannot find Americans to hire.

H-2B non- and semi-skilled workers have performed tasks essential to the economies of

communities across the United States. The tourism industry from Maine to Alaska, the construction industry in Alabama, the timber industry in Maine, the seafood and timber industries in Louisiana, the food processing industry in North Carolina, and the shrimp industry in the Southeast are but a few of the industries that have depended on the H-2B program to bring in needed workers.

For a U.S. employer to hire an H-2B worker, a multitude of steps must be completed: 1) Recruit U.S. workers under the direction of the State Workforce Agency (SWA) and receive certification that an insufficient number of American workers were willing and able to fill the vacant positions; 2) Apply for certification of need at the federal level from the U.S. Department of Labor; 3) File with the Department of Homeland Security applications and fees for H-2B workers; and 4) Obtain approval for H-2B visas from the U.S. State Department. There are a number of applicable statues under the Immigration and Nationality Act (INA) and the Department of Labor regulatory provisions under Title 20 CFR. The statutory and regulatory provisions should be reviewed carefully before any steps are taken.

There is a statutory numerical limit, or "cap," on the total number of foreign nationals who may be issued a visa or otherwise provided H-2B status (including through a change of status) during a fiscal year. Currently, the H-2B cap set by Congress is 66,000 per fiscal year, with 33,000 to be allocated for employment beginning in the 1st half of the fiscal year (October 1 - March 31) and 33,000 to be allocated for employment beginning in the 2nd half of the fiscal year (April 1 - September 30). The 66,000 cap on the H-2B program has not been adjusted since the visa category was initially capped in 1990. H-2B workers go home at the end of the season. They cannot stay in the US permanently through this program.

If you have questions about the H-2B nonimmigrant classification, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

## J-1 Exchange Visitor Program

The Exchange Visitor (J) non-immigrant visa category is for foreign individuals approved to participate in approved work-and study-based exchange visitor programs for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, receiving training, or to receive graduate medical education or training to promote the interchange or persons, knowledge, and skills, in the fields of education, arts, and science.

The Department of State designates public and private entities to act as exchange sponsors to carry out the responsibilities of the Program and thus, J-1 nonimmigrants are sponsored by an exchange program that is designated as such by the U.S. Department of State.

The J-1 Programs includes, but is not limited to:

**Au Pair** –Qualifying applicants must be 18-to-26-years-old, proficient in spoken English and must complete at least six hours of academic credit or its equivalent at an accredited U.S. post-

secondary educational institution. Au Pairs live with a family for 12 months, with the option to extend 6, 9, or 12 more months. They should also receive a minimum of 32 hours of childcare training before starting work. Childcare is limited to no more than 10 hours per day, and to a maximum of 45 hours per week. Au pairs are compensated for their work according to the Fair Labor Standards Act as interpreted and implemented by the U.S. Department of Labor. They receive up to $500, including room and board, toward the cost of required academic course work.

**Camp Counselor** – Qualifying foreign individuals must be at least 18-years-old, proficient in spoken English and a bona fide youth worker, student, teacher or other specially qualified individual. Camp counselors must receive pay and benefits commensurate with those offered to their American counterparts at the camps.

**College and University Student** – Foreign university/college students may engage in degree-granting programs until completion or non-degree granting programs for no more than 24 months. Students may also engage in part-time employment under certain conditions, including good academic standing at their host institution or in academic training with or without wages or other remuneration during their studies with the approval of the academic dean or adviser and the responsible officer at their sponsor organization.

**Intern** – Qualifying foreign individuals currently enrolled in and pursuing studies at a foreign degree- or certificate-granting post-secondary academic institution outside the United States; or who have graduated from such an institution no more than 12 months prior to their exchange visitor program start date. In 2013, there were over 20,000 J-1 interns.

**Summer Work Travel** – Qualifying foreign individuals are college and university students who are enrolled full time and pursuing studies at post-secondary accredited academic institutions located outside the United States and participating in the program to share their culture and ideas with people of the United States through temporary work and travel opportunities. The Summer Work Travel program provides foreign students with an opportunity to live and work in the United States during their summer vacation from college or university to experience and be exposed to the people and way of life in the United States.

**Trainee** – Qualifying foreign individuals who have a degree or professional certificate from a foreign post-secondary academic institution and at least one year of prior related work experience in his or her occupational field outside the United States; or have five years of work experience outside the United States in the occupational field in which they are seeking training. The Trainee program enhances the skills and expertise of exchange visitors in their academic or occupational fields through participation in a structure and guided training-based program. Over 9000 people participated in the Trainee program in 2013.

Before foreign individuals can apply at a U.S. Embassy or Consulate for a J-1 visa, they must first apply for and be accepted into an exchange visitor program through a designated sponsoring organization. Exchange visitors who are citizens of Visa Waiver Program (VWP) participating countries are not permitted to travel without a visa on the VWP or travel on business/tourist (B-1/B-2) visas, if their purpose of travel is to participate in an exchange visitor

program. All exchange visitors must travel to the United States with exchange visitor (J-1) visas.

If you have questions about the J-1 nonimmigrant classification, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

## Religious Immigrant and Non-immigrant Worker Visas

Foreign nationals, ministers and non-ministers in religious vocations and occupations may temporarily enter or immigrate to the United States for the purpose of performing religious work. A petitioning religious organization needs to submit clear evidence showing that it is a bona fide tax-exempt organization. The regulations make clear that only an Internal Revenue Service (IRS) determination letter identifying the organization as a nonprofit organization under Internal Revenue Code (IRC) §501(c)(3) is acceptable; a tax-exempt determination under IRC §501(d), 26 USC §501(d), will not qualify an organization to file nonimmigrant and immigrant petitions for religious workers.

For Catholic organizations, the IRS has annually issued a letter to the U.S. Conference of Catholic Bishops regarding its group ruling since 1946. This group-ruling letter indicates that organizations listed in the Official Catholic Directory are covered by the group's tax-exempt ruling. Therefore, submission of a copy of the most recent version of the IRS group ruling letter and a copy of the Official Catholic Directory is sufficient to demonstrate tax-exempt status and membership in the denomination.

**Non-immigrant Religious Worker Visa:**

An R1 Visa enables foreign religious workers to temporarily enter the United States to be employed at least part time (average of at least 20 hours per week) by a non-profit religious organization in the United States (or an organization which is affiliated with the religious denomination in the United States) to work as a minister or in a religious vocation or occupation engaged in either a professional or non-professional capacity.

Application for designation as an R-1 temporary religious worker, based on an approval of the qualifying religious employer's petition to the USCIS, may be made in one of the following ways: If the individual is in the U.S. in a valid nonimmigrant status seeking a change of status to R or an extension of status. (All R-1 petitions are currently processed at the California Service Center, regardless of where the foreign national will be employed.) If the individual is outside the U.S., then the application can be made directly by the individual at the U.S. consulate nearest his/her place of residence that accepts this nonimmigrant visa application by filing the Nonimmigrant Visa Application (DS-156).

An initial period of stay for an approved R-1 worker and dependents will be approved for the requested period, not to exceed 3 years. An extension of stay may be granted for an additional 2 years, not to exceed a total maximum stay of 5 years. Please note that unlike workers in the H-1B classification, R-1 religious workers may not extend the 5-year period based on an

approved petition for Special Immigrant Religious Worker or approved labor certification and Immigrant Worker petition.

**Immigrant Religious Worker Visa:**

An Employment-based, Fourth preference (EB-4) Visa allows foreign religious workers to immigrate to the United States for the purpose of performing religious work in a full-time compensated position

To qualify as a special immigrant religious worker, the foreign national must: have been a member of a religious denomination that has a bona fide non-profit religious organization in the United States for **at** least 2 years immediately or before the filing of a petition for this status with USCIS; and seek to enter the United States to work in a full time, compensated position with a bona fide non-profit religious organization in the United States; or a bona fide organization that is affiliated with the religious denomination in the United States.

To petition for an employment-based fourth preference immigrant for foreign religious workers, a qualifying religious employer must file a Petition for Special Immigrant. If an the I-360 petition is approved, the alien must either obtain an immigrant visa through a US consulate abroad or, if present in the US, submit a Form I-485 to the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) for adjustment of status from whatever temporary (nonimmigrant) classification under which the alien entered the US to permanent resident (immigrant). Please note that the USCIS modified its procedures and no longer accepts concurrent filings of Form I-360 petitions and Form I-485 applications.

Please note that there is a statutory numerical limit (or “cap”) of 5,000 workers who may be issued a special immigrant non-minister religious worker visa during each fiscal year. There is no cap for special immigrant religious workers entering the United States solely for the purpose of carrying on the vocation of a minister. On September 28, 2012, President Obama signed Public Law 112-176 extending the non-minister special immigrant religious worker program through September 30, 2015. The law allows these workers to immigrate or adjust to permanent resident by that date. Non-minister special immigrant religious workers include those within a religious vocation or occupation engaged in either a professional or non-professional capacity.

If you have questions about the Religious Worker Visa, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

**Set(s) of Immigration Rules to Which Foreign Nationals Might be Subject**

Immigrants and Non-immigrants might be subject to the following set(s) of Immigration rules: Inadmissibility Under INA §212, Deportability Under INA §237, and Good Moral Character Under INA §101(f).

1) Inadmissibility Under INA §212

Inadmissibility is a determination that a person seeking admission to the United States or who has already entered the United States without admission is not entitled to be admitted. The following are examples of persons who are subject to the grounds of inadmissibility under the U.S. Immigration and Nationality Act ("INA") §212:

- Noncitizens who entered without inspection (EWIs)
- All noncitizens seeking admission to the United States at the border, either temporarily or as lawful permanent residents (LPRs)
- Persons physically in the United States who are seeking to adjust their status to lawful permanent residency
- Foreign individuals paroled into the United States
- LPRs returning from a trip abroad may be considered to be seeking admission under INA §101(a)(13)(C), including those who have committed criminal offenses that would make them inadmissible under INA §212(a)(2).

Under INA §101(a)(13)(C), LPRs are not considered to be seeking an admission into the U.S. unless the alien (i) Has abandoned or relinquished that status; (ii) Has been absent from the United States for a continuous period in excess of 180 days; (iii) Has engaged in illegal activity after having departed the U.S.; (iv) Has departed form the U.S. while under legal process seeking removal of the alien from the U.S.; (v) Has committed an offense identified in section 212(a)(2), unless since such offense the alien has been granted relief under 212(h) or 240(A)(a); and (vi) Is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the U.S. after inspection and authorization by an immigration officer.

2) Deportability Under INA §237

Foreign individuals, who were admitted in any status, even if that status has expired, are subject to the grounds of deportability listed in INA §237. Lawful Permanent Residents, other than those returning from a trip abroad and subject to classification as arriving Foreign individuals under INA §101(a)(13)(C), are considered to have been admitted as of the day they adjust status.

3) Good Moral Character Under INA §101(f)

The following foreign individuals will have to show they are of good moral character under INA §101(f):

- Those applying for residency (Green Cards) through special immigration laws, such as applicants under the Violence Against Women Act (VAWA), the Nicaraguan Adjustment and Central American Relief Act (NACARA), seven-year suspension of deportation, and 10-year cancellation of removal
- Lawful permanent residents applying for naturalization

It is important to recognize more than one set of immigration rules may apply to foreign nationals and any issues should be analyzed under each set of applicable rules. For example, all applicants for adjustment who entered with admission are subject to both INA §212 and INA

§237.

Please also see the first 2014 quarterly newsletter on Legal Permanent Resident and Ground of Inadmissibility/Deportability. If you have questions about the U.S. Immigration and Nationality Act ("INA"), please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

**Criminal Grounds of Inadmissibility/Deportability**

Grounds of deportation/removal from the United States are divided into two different categories under the U.S. Immigration and Nationality Act ("INA"): (1) Grounds of Inadmissibility under § 212(a); and (2) Grounds of Deportation under § 237(a)(1)(A). Grounds of Inadmissibility are applied to foreign individuals that are seeking admission (entry) to the United States and who have not yet been admitted. The grounds of deportation apply to individuals who have been admitted to the U.S. and who are physically located within the United States, but who became deportable/removable based upon certain violation of law. Certain grounds of inadmissibility and deportability are waivable under the INA.

One of the most commonly applied grounds of inadmissibility and deportability is Criminal Grounds [INA § 212(a)(2) and INA §237(A)(2)]. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) expanded the scope of removability of noncitizens with criminal records. Foreign nationals are inadmissible to the U.S. if, for example, they have been convicted of, or who admits having committed, or who admits committing acts, which constitute the essential elements of either (1) a crime involving moral turpitude ("CIMT"); or (2) an offense relating to a controlled substance.

Crimes that have fraud as an element are considered to involve moral turpitude. Examples of CIMTs include, but are not limited to, murder, rape, arson, robbery, larceny/theft, and fraud. However, the crime of moral turpitude category does not cover certain juvenile or minor offenses.

Foreign nationals are also inadmissible and deportable if they are convicted of two or more offenses, regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more. Any foreign nationals known or suspected to have engaged, are engaging, or seek to enter the U.S. to engage in money laundering are inadmissible as well.

Various criminal grounds for inadmissibility are, by their own terms, subject to exception, and most criminal grounds for inadmissibility may nevertheless be waived in a number of circumstances. The INA §212(h) provides three separate waivers for immigrants. Each of those waivers waive the following criminal inadmissibility grounds: 1) crimes of moral turpitude, 2) multiple criminal convictions, 3) prostitution and commercialized vice, 4) assertion of immunity from prosecution, and 5) a single offense of simple possession of 30 grams or less of marijuana. These waivers do not waive substance abuse offenses, other than a single offense of simple possession of 30 grams or less of marijuana, nor do they waive trafficking in controlled

substances or persons, or engaging in particularly severe violations of religious freedom. However, certain aliens are barred from consideration for § 212(h) waivers for foreign individuals who have been convicted of murder or criminal acts involving torture, as well as attempts or conspiracies to commit murder or a criminal act involving torture. Further, a waiver under § 212(h) is not available in the case of a Legal Permanent Resident (LPR) if the individual has been convicted of an aggravated felony since the date of the admission as a LPR or the individual has not lawfully resided continuously in the United States for at least seven years immediately preceding the date of initiation of proceedings to remove the alien from the United States.

In addition to § 212(h) waivers, criminal grounds may be waived for aliens seeking temporary admission as nonimmigrants, such as those seeking to enter the United States as tourists. The consular or immigration officer may waive the criminal grounds of inadmissibility for nonimmigrants, under INA §212(d)(3). This waiver is granted in the exercise of discretion and the applicant must convince the consular or immigration officer to exercise discretion favorably.

If you have questions about the Criminal Ground of Inadmissibility and Deportability, and Immigrant and Non-immigrant Waivers, please contact Sujin Kim, Esq. at (251) 379-8065/ (251) 387-2544 or skim@gcimmigration.com

## Immigration Processing Times

Please click to access current processing times of the Department of State's latest Visa Bulletin, the USCIS Service Centers, or the Department of Labor with the most recent cut-off dates for visa numbers:

Department of State Visa Bulletin: click here

USCIS Service Center processing times online: click here

Department of Labor processing times: click here

## Economic and Political Impact of Immigrants in AL

According to the U.S. Census Bureau. Alabama was home to 162,673 immigrants in 2011. Immigrants (foreign-born) make up 3.4% of the state's population and comprised 4.7% of the state's workforce (107,062 workers). Over one-third of them, more precisely, 35.4% of immigrants (57,576 people) are naturalized U.S. citizens and eligible to vote and 0.8% of registered voters (19,504) in Alabama were "New Americans"—naturalized citizens or the U.S.-born children of immigrants according to an analysis of 2008 Census Bureau. Immigrants are not only important to Alabama's economy as workers, but also account for billions of dollars in tax revenue and consumer purchasing power.

Latino and Asian immigrant entrepreneurs and consumers account for growing shares of the economy and population in Alabama. Latinos and Asians (both foreign-born and native-born) represented $5.8 billion in consumer purchasing power, and the businesses they own had sales and receipts of $3.6 billion, and employed more than 25,000 people in 2012 according to the U.S. Census Bureau's Survey of Business Owners. Further- more, Alabama's 6,450 foreign non-immigrant students contributed $135.6 million to the state's economy in tuition, fees, and living expenses for the 2011-2012 academic year, according to Association of International Educators.

We all understand, from experience and from the best data, that immigrants drive economic growth. Mayor's Offices around the country, led by the New York City Mayor's Office, have begun to seek ways to tap into this value and potential of current and future immigrants and develop blueprints for immigrant civic engagement, citizenship, police and community relations, and economic development.

An important component of immigrants' labor force, tax base, and business community in Alabama also should be recognized and policies that strategically address immigrant communities' unique needs must be developed. This will further enhance immigrants' and non-immigrants' contributions to the civic, economic and cultural life of Alabama.

## About Gulf Coast Immigration

Immigration and Global Migration are one of the most complex and dynamic areas of law and policy affecting America's social and economic composition. A well-functioning immigration system is critical to America remaining strong and vibrant. To contribute to this goal and to meet the growing needs for comprehensive and sophisticated legal services in all aspects of business immigration-related matters in Northwest Florida, South Alabama and Mississippi, GCI has been issuing monthly business immigration newsletters/updates and immigration alerts to announce fast-breaking developments.

GCI offers guidance, advice, counsel and representation to business and individual clients in matters of immigrant (both employment- and family- based) and nonimmigrant working visa petitions and applications, with a subspecialty focusing on the U.S. Immigration Investor Program (EB-5 Program) and foreign investments under the U.S.-Korea Free Trade Agreement. GCI offers a free evaluation service for individuals who intend to apply for nonimmigrant and both employed- and family-based immigrant visas as to their immigration options and the likelihood of a successful case. To be considered for the free evaluation service, please e-mail info@gcimmigration.com, reference "Free Evaluation" in the subject line and include contact information. GCI conducts free seminars as a public service for those community organizations and groups interested in learning about U.S. immigration laws and policies. If you would like to have GCI present a free seminar please visit www.gcimmigration.com for more information.

GCI also conducts fee-based educational lectures/seminars and training for U.S. based academic institutions and businesses on information and developments on the U.S. immigration law and policy, including I-9 Compliance, E-Verify, and the EB-5 Program. For further information about GCI, publications and lectures and seminars, contact us at www.gcimmigration.com

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