

115TH CONGRESS
1ST SESSION

H. R. 392

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2017

Mr. CHAFFETZ (for himself, Mr. BISHOP of Michigan, Mr. COHEN, Mrs. COMSTOCK, Mr. CONNOLLY, Mr. COURTNEY, Mr. CUMMINGS, Mr. DEUTCH, Mr. FARENTHOLD, Ms. KELLY of Illinois, Mr. LANGEVIN, Mrs. LOVE, Ms. MENG, Mr. O'ROURKE, Mr. PAULSEN, Mr. PEARCE, Mr. QUIGLEY, Mr. RYAN of Ohio, Ms. SLAUGHTER, Ms. STEFANIK, Mr. STEWART, Mr. SWALWELL of California, Mr. TAKANO, Mrs. WAGNER, Mr. WALZ, and Mr. YARMUTH) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to eliminate the per-country numerical limitation for employment-based immigrants, to increase the per-country numerical limitation for family-sponsored immigrants, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fairness for High-
3 Skilled Immigrants Act of 2017”.

4 **SEC. 2. NUMERICAL LIMITATION TO ANY SINGLE FOREIGN**
5 **STATE.**

6 (a) IN GENERAL.—Section 202(a)(2) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1152(a)(2)) is
8 amended—

9 (1) in the paragraph heading, by striking “AND
10 EMPLOYMENT-BASED”;

11 (2) by striking “(3), (4), and (5),” and insert-
12 ing “(3) and (4),”;

13 (3) by striking “subsections (a) and (b) of sec-
14 tion 203” and inserting “section 203(a)”;

15 (4) by striking “7” and inserting “15”; and

16 (5) by striking “such subsections” and inserting
17 “such section”.

18 (b) CONFORMING AMENDMENTS.—Section 202 of the
19 Immigration and Nationality Act (8 U.S.C. 1152) is
20 amended—

21 (1) in subsection (a)(3), by striking “both sub-
22 sections (a) and (b) of section 203” and inserting
23 “section 203(a)”;

24 (2) by striking subsection (a)(5); and

25 (3) by amending subsection (e) to read as fol-
26 lows:

1 “(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—
2 If it is determined that the total number of immigrant
3 visas made available under section 203(a) to natives of
4 any single foreign state or dependent area will exceed the
5 numerical limitation specified in subsection (a)(2) in any
6 fiscal year, in determining the allotment of immigrant visa
7 numbers to natives under section 203(a), visa numbers
8 with respect to natives of that state or area shall be allo-
9 cated (to the extent practicable and otherwise consistent
10 with this section and section 203) in a manner so that,
11 except as provided in subsection (a)(4), the proportion of
12 the visa numbers made available under each of paragraphs
13 (1) through (4) of section 203(a) is equal to the ratio of
14 the total number of visas made available under the respec-
15 tive paragraph to the total number of visas made available
16 under section 203(a).”.

17 (c) COUNTRY-SPECIFIC OFFSET.—Section 2 of the
18 Chinese Student Protection Act of 1992 (8 U.S.C. 1255
19 note) is amended—

20 (1) in subsection (a), by striking “subsection
21 (e))” and inserting “subsection (d))”; and

22 (2) by striking subsection (d) and redesignating
23 subsection (e) as subsection (d).

24 (d) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect as if enacted on September

1 30, 2016, and shall apply to fiscal years beginning with
2 fiscal year 2017.

3 (e) TRANSITION RULES FOR EMPLOYMENT-BASED
4 IMMIGRANTS.—

5 (1) IN GENERAL.—Subject to the succeeding
6 paragraphs of this subsection and notwithstanding
7 title II of the Immigration and Nationality Act (8
8 U.S.C. 1151 et seq.), the following rules shall apply:

9 (A) For fiscal year 2017, 15 percent of the
10 immigrant visas made available under each of
11 paragraphs (2) and (3) of section 203(b) of
12 such Act (8 U.S.C. 1153(b)) shall be allotted to
13 immigrants who are natives of a foreign state
14 or dependent area that was not one of the two
15 states with the largest aggregate numbers of
16 natives obtaining immigrant visas during fiscal
17 year 2011 under such paragraphs.

18 (B) For fiscal year 2018, 10 percent of the
19 immigrant visas made available under each of
20 such paragraphs shall be allotted to immigrants
21 who are natives of a foreign state or dependent
22 area that was not one of the two states with the
23 largest aggregate numbers of natives obtaining
24 immigrant visas during fiscal year 2012 under
25 such paragraphs.

1 (C) For fiscal year 2019, 10 percent of the
2 immigrant visas made available under each of
3 such paragraphs shall be allotted to immigrants
4 who are natives of a foreign state or dependent
5 area that was not one of the two states with the
6 largest aggregate numbers of natives obtaining
7 immigrant visas during fiscal year 2015 under
8 such paragraphs.

9 (2) PER-COUNTRY LEVELS.—

10 (A) RESERVED VISAS.—With respect to
11 the visas reserved under each of subparagraphs
12 (A) through (C) of paragraph (1), the number
13 of such visas made available to natives of any
14 single foreign state or dependent area in the ap-
15 propriate fiscal year may not exceed 25 percent
16 (in the case of a single foreign state) or 2 per-
17 cent (in the case of a dependent area) of the
18 total number of such visas.

19 (B) UNRESERVED VISAS.—With respect to
20 the immigrant visas made available under each
21 of paragraphs (2) and (3) of section 203(b) of
22 such Act (8 U.S.C. 1153(b)) and not reserved
23 under paragraph (1), for each of fiscal years
24 2015, 2016, and 2017, not more than 85 per-

1 cent shall be allotted to immigrants who are na-
2 tives of any single foreign state.

3 (3) SPECIAL RULE TO PREVENT UNUSED
4 VISAS.—If, with respect to fiscal year 2015, 2016, or
5 2017, the operation of paragraphs (1) and (2) of
6 this subsection would prevent the total number of
7 immigrant visas made available under paragraph (2)
8 or (3) of section 203(b) of such Act (8 U.S.C.
9 1153(b)) from being issued, such visas may be
10 issued during the remainder of such fiscal year with-
11 out regard to paragraphs (1) and (2) of this sub-
12 section.

13 (4) RULES FOR CHARGEABILITY.—Section
14 202(b) of such Act (8 U.S.C. 1152(b)) shall apply
15 in determining the foreign state to which an alien is
16 chargeable for purposes of this subsection.

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