

EB-5 IMMIGRANT INVESTOR CATEGORY

NEW COMMERCIAL ENTERPRISE

The investor must invest in a new commercial enterprise, that is, any company formed after November 29, 1990.

A company formed before that date may still qualify if it has been restructured or reorganized such that a new commercial enterprise results OR if it has been expanded so that the net worth or net employees have increased by at least 40%.

REQUIRED AMOUNT OF INVESTMENT

The investor must have invested or be in the process of investing the required amount of capital.

The required amount of capital depends upon the unemployment rate or population where the investment and job creating entity is located. If the population is less than 20,000, the area is considered a “rural” area. If the unemployment rate is at least 50% higher than the national unemployment rate, then the area is considered a “targeted employment area.” For rural areas or targeted employment areas, the required amount of investment is \$500,000. For all other areas, the minimum amount required is \$1,000,000.

LAWFUL SOURCE OF FUNDS

The investor must prove that the investment capital came from a lawful source. Tax returns, sale of property or business records can be shown to prove that the capital was obtained lawfully. A gift or a loan is a lawful source of funds as long as the gifted or loaned money was lawful.

JOB CREATION

The investor must prove that the investment will create 10 new full-time jobs for U.S. workers within two years.

If the investor invests in a “troubled business,” which is one that has experienced a net loss exceeding 20% of its net worth in the past one or two years, the investor need only show that his investment maintains/sustains the level of employment in existence prior to the investment.

MANAGEMENT OF THE ENTERPRISE

The investor must be engaged in the management of the new commercial enterprise; he or she may not be a passive investor. The investor may be a member of the board of directors, a corporate officer, or a limited partner.

REMOVAL OF THE TWO-YEAR CONDITION

The investor must create the required employment within two years and must have maintained the investment during that time period. A petition to remove the condition must be filed prior to the expiration of the two-year period. Upon approval, the investor receives a permanent green card.