

1 ment to any person or circumstance, is held to be uncon-  
2 stitutional, the remainder of the provisions of this Act and  
3 the amendments made by this Act and the application of  
4 the provision or amendment to any other person or cir-  
5 cumstance shall not be affected.

6 **TITLE II—IMMIGRANT VISAS**  
7 **Subtitle A—Registration and Ad-**  
8 **justment of Registered Provi-**  
9 **sional Immigrants**

10 **SEC. 2101. REGISTERED PROVISIONAL IMMIGRANT STATUS.**

11 (a) AUTHORIZATION.—Chapter 5 of title II (8 U.S.C.  
12 1255 et seq.) is amended by inserting after section 245A  
13 the following:

14 **“SEC. 245B. ADJUSTMENT OF STATUS OF ELIGIBLE EN-**  
15 **TRANTS BEFORE DECEMBER 31, 2011, TO**  
16 **THAT OF REGISTERED PROVISIONAL IMMI-**  
17 **GRANT.**

18 “(a) IN GENERAL.—Notwithstanding any other pro-  
19 vision of law, the Secretary of Homeland Security (re-  
20 ferred to in this section as the ‘Secretary’), after con-  
21 ducting the national security and law enforcement clear-  
22 ances required under subsection (c)(8), may grant reg-  
23 istered provisional immigrant status to an alien who—

24 “(1) meets the eligibility requirements set forth  
25 in subsection (b);

1           “(2) submits a completed application before the  
2 end of the period set forth in subsection (c)(3); and

3           “(3) has paid the fee required under subsection  
4 (c)(10)(A) and the penalty required under sub-  
5 section (c)(10)(C), if applicable.

6           “(b) ELIGIBILITY REQUIREMENTS.—

7           “(1) IN GENERAL.—An alien is not eligible for  
8 registered provisional immigrant status unless the  
9 alien establishes, by a preponderance of the evidence,  
10 that the alien meets the requirements set forth in  
11 this subsection.

12           “(2) PHYSICAL PRESENCE.—

13           “(A) IN GENERAL.—The alien—

14           “(i) shall be physically present in the  
15 United States on the date on which the  
16 alien submits an application for registered  
17 provisional immigrant status;

18           “(ii) shall have been physically  
19 present in the United States on or before  
20 December 31, 2011; and

21           “(iii) shall have maintained contin-  
22 uous physical presence in the United  
23 States from December 31, 2011, until the  
24 date on which the alien is granted status

1 as a registered provisional immigrant  
2 under this section.

3 “(B) BREAK IN PHYSICAL PRESENCE.—

4 “(i) IN GENERAL.—Except as pro-  
5 vided in clause (ii), an alien who is absent  
6 from the United States without authoriza-  
7 tion after the date of the enactment of this  
8 section does not meet the continuous phys-  
9 ical presence requirement set forth in sub-  
10 paragraph (A)(iii).

11 “(ii) EXCEPTION.—An alien who de-  
12 parted from the United States after De-  
13 cember 31, 2011 will not be considered to  
14 have failed to maintain continuous pres-  
15 ence in the United States if the alien’s ab-  
16 sences from the United States are brief,  
17 casual, and innocent whether or not such  
18 absences were authorized by the Secretary.

19 “(3) GROUNDS FOR INELIGIBILITY.—

20 “(A) IN GENERAL.—Except as provided in  
21 subparagraph (B), an alien is ineligible for reg-  
22 istered provisional immigrant status if the Sec-  
23 retary determines that the alien—

24 “(i) has a conviction for—

1           “(I) an offense classified as a fel-  
2           ony in the convicting jurisdiction  
3           (other than a State or local offense  
4           for which an essential element was the  
5           alien’s immigration status or a viola-  
6           tion of this Act);

7           “(II) an aggravated felony (as  
8           defined in section 101(a)(43) at the  
9           time of the conviction);

10           “(III) 3 or more misdemeanor of-  
11           fenses (other than minor traffic of-  
12           fenses or State or local offenses for  
13           which an essential element was the  
14           alien’s immigration status or a viola-  
15           tion of this Act) if the alien was con-  
16           victed on different dates for each of  
17           the 3 offenses;

18           “(IV) any offense under foreign  
19           law, except for a purely political of-  
20           fense, which, if the offense had been  
21           committed in the United States,  
22           would render the alien inadmissible  
23           under section 212(a) (excluding the  
24           paragraphs set forth in clause (ii)) or  
25           removable under section 237(a), ex-

1 cept as provided in paragraph (3) of  
2 section 237(a);

3 “(V) unlawful voting (as defined  
4 in section 237(a)(6));

5 “(ii) is admissible v reference  
6 212(a), except that in determining an document  
7 alien’s admissibility— missing

8 “(I) paragraphs (4), (5), (7), and  
9 (9)(B) of section 212(a) shall not  
10 apply;

11 “(II) subparagraphs (A), (C),  
12 (D), (F), and (G) of section 212(a)(6)  
13 and paragraphs (9)(C) and (10)(B) of  
14 section 212(a) shall not apply unless  
15 based on the act of unlawfully enter-  
16 ing the United States after the date  
17 of the enactment of the Border Secu-  
18 rity, Economic Opportunity, and Im-  
19 migration Modernization Act; and

20 “(III) paragraphs (6)(B) and  
21 (9)(A) of section 212(a) shall not  
22 apply unless the relevant conduct  
23 began on or after the date on which  
24 the alien files an application for reg-

1           istered provisional immigrant status  
2           under this section;

3           “(iii) the Secretary knows or has rea-  
4           sonable grounds to believe, is engaged in or  
5           is likely to engage after entry in any ter-  
6           rorist activity (as defined in section  
7           212(a)(3)(B)(iv)); or

8           “(iv) was, on the date on which this  
9           Act was introduced in the Senate—

10           “(I) an alien lawfully admitted  
11           for permanent residence;

12           “(II) an alien admitted as a ref-  
13           ugee under section 207 or granted  
14           asylum under section 208; or

15           “(III) an alien who, according to  
16           the records of the Secretary or the  
17           Secretary of State, is lawfully present  
18           in the United States in any non-  
19           immigrant status (other than an alien  
20           considered to be a nonimmigrant sole-  
21           ly due to the application of section  
22           244(f)(4) or the amendment made by  
23           section 702 of the Consolidated Nat-  
24           ural Resources Act of 2008 (Public  
25           Law 110–229)), notwithstanding any

1 unauthorized employment or other  
2 violation of nonimmigrant status.

3 “(B) WAIVER.—

4 “(i) IN GENERAL.—The Secretary  
5 may waive the application of subparagraph  
6 (A)(i)(III) or any provision of section  
7 212(a) that is not listed in clause (ii) on  
8 behalf of an alien for humanitarian pur-  
9 poses, to ensure family unity, or if such a  
10 waiver is otherwise in the public interest.  
11 Any discretionary authority to waive  
12 grounds of inadmissibility under section  
13 212(a) conferred under any other provision  
14 of this Act shall apply equally to aliens  
15 seeking registered provisional status under  
16 this section.

17 “(ii) EXCEPTIONS.—The discretionary  
18 authority under clause (i) may not be used  
19 to waive—

20 “(I) subparagraph (B), (C),  
21 (D)(ii), (E), (G), (H), or (I) of section  
22 212(a)(2);

23 “(II) section 212(a)(3);

24 “(III) subparagraph (A), (C),  
25 (D), or (E) of section 212(a)(10); or

1                   “(IV) with respect to misrepre-  
2                   sentations relating to the application  
3                   for registered provisional immigrant  
4                   status, section 212(a)(6)(C)(i).

5                   “(C) CONVICTION EXPLAINED.—For pur-  
6                   poses of this paragraph, the term ‘conviction’  
7                   does not include a judgment that has been ex-  
8                   punged, set aside, or the equivalent.

9                   “(D) RULE OF CONSTRUCTION.—Nothing  
10                  in this paragraph may be construed to require  
11                  the Secretary to commence removal proceedings  
12                  against an alien.

13                  “(4) APPLICABILITY OF OTHER PROVISIONS.—  
14                  Sections 208(d)(6) and 240B(d) shall not apply to  
15                  any alien filing an application for registered provi-  
16                  sional immigrant status under this section.

17                  “(5) DEPENDENT SPOUSE AND CHILDREN.—

18                  “(A) IN GENERAL.—Notwithstanding any  
19                  other provision of law, the Secretary shall clas-  
20                  sify the spouse or child of a registered provi-  
21                  sional immigrant as a registered provisional im-  
22                  migrant dependent if the spouse or child—

23                          “(i) is physically present in the  
24                          United States—

1                   “(I) on the date on which the  
2                   registered provisional immigrant is  
3                   granted such status; and

4                   “(II) on or before December 30,  
5                   2012;

6                   “(ii) meets all of the eligibility re-  
7                   quirements set forth in this subsection,  
8                   other than the requirements of clause (ii)  
9                   or (iii) of paragraph (2).

10                  “(B) EFFECT OF TERMINATION OF LEGAL  
11                  RELATIONSHIP.—If the spousal or parental re-  
12                  lationship between an alien who is granted reg-  
13                  istered provisional immigrant status under this  
14                  section and the alien’s child is terminated, the  
15                  spouse or child may apply for classification as  
16                  a registered provisional immigrant dependent if  
17                  the termination of the relationship with such  
18                  parent was due to death, divorce, or otherwise  
19                  connected to domestic violence, notwithstanding  
20                  subsection (c)(3).

21                  “(C) EFFECT OF DISQUALIFICATION OF  
22                  PARENT.—If the application of a spouse or par-  
23                  ent for registered provisional immigrant status  
24                  is terminated or revoked, the husband, wife, or  
25                  child of that spouse or parent shall be eligible

1 to apply for registered provisional immigrant  
2 status independent of the parent notwith-  
3 standing subsection (c)(3).

4 “(c) APPLICATION PROCEDURES.—

5 “(1) IN GENERAL.—An alien, or the dependent  
6 spouse or child of such alien, who meets the eligi-  
7 bility requirements set forth in subsection (b) may  
8 apply for status as a registered provisional immi-  
9 grant or a registered provisional immigrant depend-  
10 ent, as applicable, by submitting a completed appli-  
11 cation form to the Secretary during the application  
12 period set forth in paragraph (3), in accordance with  
13 the final rule promulgated by the Secretary under  
14 the Border Security, Economic Opportunity, and  
15 Immigration Modernization Act. An applicant for  
16 registered provisional immigrant status shall be  
17 treated as an applicant for admission.

18 “(2) PAYMENT OF TAXES.—

19 “(A) IN GENERAL.—An alien may not file  
20 an application for registered provisional immi-  
21 grant status under paragraph (1) unless the ap-  
22 plicant has satisfied any applicable Federal tax  
23 liability.

24 “(B) DEFINITION OF APPLICABLE FED-  
25 ERAL TAX LIABILITY.—In this paragraph, the