

**Statement Of Senator Patrick Leahy (D-Vt.)
At Senate Judiciary Committee Hearing On
“Citizenship for Sale: Oversight of the EB-5 Investor Visa Program”
June 19, 2018**

For the last several years, Chairman Grassley and I have worked together across the aisle — and across the Capitol — to bring long overdue reforms to the EB-5 Regional Center program. The EB-5 program I once championed seems like a distant memory. It was designed to bring jobs to underserved rural and urban communities. And for some time, it did just that. But the program that exists today has strayed from these goals. It is a magnet for fraud. Securities violations are common. And the incentives that Congress created to promote investment in distressed areas have become obsolete due to economic gerrymandering.

According to a recent review by the Government Accountability Office, only three percent of EB-5 investors invest in rural areas. Three percent. Less than 10 percent invest in true high unemployment areas. Almost every other EB-5 project uses gerrymandering to qualify as distressed, despite many being located in the most affluent parts of the country. As I have said before, the fact that a luxury hotel in Beverly Hills can use gerrymandering to claim it is located in a distressed community is troubling. But the fact that this type of abuse now represents the majority of the entire EB-5 program is appalling. And an untold number of these luxury developments would be pursued regardless of EB-5 financing, casting doubt on whether the program is creating any jobs at all.

In my home State of Vermont, EB-5 has been used in areas that would not otherwise have been able to attract significant investment. But even in Vermont, this program has brought controversy. The fraud that occurred at the state’s largest EB-5 project, Jay Peak, illustrates why the reforms that we have been working to achieve are so critical. If this program is going to exist, it needs more oversight.

Yet, for some developers, any change to the status quo is a threat to their bottom line. And congressional leadership has allowed a couple of powerful developers who exploit this program’s flaws to derail critical reforms. That is unacceptable. The worst abusers of a government program should not be given veto power over its reform.

Thankfully, the Department of Homeland Security’s proposed rules represent a significant step forward. Two years ago, we asked then-Secretary Jeh Johnson to do all he could to improve the EB-5 program. And I commend him for those efforts. By increasing investment amounts and reining in abusive gerrymandering practices, these changes will end some of the most egregious abuses. Investors will also be afforded greater flexibility when circumstances change through no fault of their own, which will bring additional fairness to the program.

But now it is up to the Trump administration to see that these improvements are implemented and enforced. I find it highly concerning that these rules have not yet been finalized. I am concerned that members of the Trump administration like Jared Kushner—who has profited off of this program by using it to subsidize luxury developments—have no incentive to see it reformed. I hope that administration moves forward to finalize these regulations without further

delay. I want to thank both Chairman Grassley and House Judiciary Chairman Bob Goodlatte for shining a spotlight on this issue. We must not let these proposed rules be discarded.

I still believe, as did Secretary Johnson, that EB-5's many problems ultimately demand a legislative solution. I remain committed to doing more to protect investors and to root out fraud within the program, such as increasing fraud investigations and requiring additional oversight of investor funds. It is my hope that the serious reforms proposed in the new rules will lead to these broader improvements. And I look forward to continuing to work with senators on both sides of the aisle to make sure the EB-5 program again serves the rural and poor urban communities that Congress intended.

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