



# EB-5 Immigrant Investor Program – High Unemployment Target Employment Area Guidelines

## A. OVERVIEW OF EB-5

Congress enacted the EB-5 program in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. The United States Department of Citizenship and Immigration Services (“USCIS”) administers the EB-5 program. Under the program, foreign investors (and their spouses and unmarried children under 21) are eligible to apply for a Green Card (permanent residence) if they:

- Make the necessary investment in an eligible enterprise under the program;
- Plan to create or preserve 10 permanent full-time jobs for qualified U.S. workers;

In June 2021, a U.S. District Court vacated the EB-5 regulations put in effect after November 21, 2019. As a result, USCIS is currently applying the final rule in effect prior to November 21, 2019. Under this rule, individual states have discretion to designate high unemployment areas.

## B. OVERVIEW OF TEAs

A targeted employment area (“TEA”) is a rural area or an area that has experienced high unemployment (“high unemployment area”). A rural area is any area other than an area within a standard metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more based on the most recent decennial census. A high unemployment area is an area that has experienced unemployment of at least 150% of the national average rate at the time of the capital investment.

Under the EB-5 Program, the minimum investment under the current rule is \$1 million and a minimum investment for a Targeted Employment Area or qualifying high unemployment area is \$500,000.

## C. STATE DESIGNATION OF HIGH UNEMPLOYMENT AREAS

A state government of any state may designate a particular geographic area or political subdivision located within a metropolitan statistical area or within a city or town having a population of 20,000 or more within such a state as an area of high unemployment. Evidence of such a designation, including a description of the boundaries of the geographic or political subdivision and the method or methods by which the unemployment statistics were obtained may be submitted in support of the Form I-526 petition in lieu of other documentary evidence. The designation of high unemployment areas are within the purview of each U.S. state Governor, or his or her designee. The Kentucky Cabinet for Economic Development has been designated to make these determinations on behalf of the Commonwealth of Kentucky.

## D. PURPOSE OF STATE DESIGNATIONS

The purpose of state designation is to advance economic development and provide sustainable jobs in areas experiencing high unemployment.

In some instances, petitioners may claim high unemployment in only a portion of a geographic area or political subdivision for which unemployment statistics are not readily available or which unemployment data utilized does not reflect the unemployment statistics of the area in which the capital investment is made. These types of submissions will be denied. Individual retail stores, service providers, and restaurants will be eligible only in rare cases.

## E. GOALS

- Increase capital investment in areas experiencing high unemployment;
- Increase the number of jobs created or preserved in areas of high unemployment;
- Advance economic development in areas of high unemployment; and
- Encourage the establishment and growth of high-quality companies in Kentucky's underserved communities.

## F. SUBMISSION, REVIEW AND APPROVAL PROCESS

An applicant must demonstrate all eligibility requirements under the EB-5 program prior to seeking state designation of a high unemployment area. In addition, the Cabinet will only consider submissions that limit the proposed designation area to directly adjacent census tracts to where the project is located.

The submission must provide supporting documentation providing the following:

- Description of the boundaries of the geographic or political subdivision;
- Method or methods by which the unemployment statistics were obtained;
- Demonstration that the proposed area meets the unemployment requirements under the program;
- Letter or other documentation of local support from all local government entities in which the project is located
- Description of the planned project and how the project will create or preserve sustainable jobs for the proposed designated area

Upon receipt of the submission, the Cabinet will review the submission in accordance with the above mentioned criteria and for conformance with the EB-5 Eligible Target Employment Area statistics published on the Cabinet's website. The Cabinet has the authority to reject a submission in its sole discretion.

All submissions should be made electronically by email and directed to:

Matthew Wingate  
Executive Advisor, Office of Legal Services  
Kentucky Cabinet for Economic Development  
[Matthew.wingate@ky.gov](mailto:Matthew.wingate@ky.gov)