



2019 Legislative and Regulatory Agenda November 2019

Worldwide ERC® is raising the profile of our efforts to shape public policy impacting workforce mobility. We are highlighting this work through different communications including member updates each quarter on five items from our legislative and regulatory agenda. In our updates, we will provide the position of Worldwide ERC® on the issue, background, additional supporting organizations and the current status.

For the 2019 4th quarter update, we are reporting on six items. Three of the items are new to the agenda and the three previous items have a status change such as being raised by participants in meetings with congressional staff during the Worldwide ERC® Hill Day on 2 October 2019. Here are the six items for the 4th quarter update.

- 1. Eliminating the Country Cap Limitations on Green Cards**
- 2. Protecting Personally Identifiable Information of Transferees**
- 3. Reform of Fannie Mae and Freddie Mac**
- 4. Simplifying State Tax Rules for Mobile Workforce**
- 5. State Issues Affecting Use of Blank Deed in Home Sale Transactions:
California**
- 6. State withholding on sales of real estate by nonresidents: Maryland**

1. Eliminating the Country Cap Limitations on Green Cards

Position of Worldwide ERC®

Worldwide ERC® supports eliminating the country caps which limit the number of green cards available to workers from a particular country, and endorses the Fairness for High-Skilled Immigrants Act (H.R. 1044, S. 386). Participants of the Worldwide ERC® Hill Day on 2 October asked Senate offices to cosponsor the bill and House offices to support its final passage. Senator Richard Blumenthal (D-CT), whose staff with which attendees of the Hill Day had met, was added on 31 October as a cosponsor of the bill.

Background of Issue

On 10 July 2019, the U.S. House of Representatives passed by a vote of 365 to 65 the Fairness for High-Skilled Immigrants Act (H.R. 1044). H.R. 1044 would phase-in the removal of the country cap limitations, with certain parameters, on the number of green cards available to high-skilled workers from any particular country. Under current policy, only seven percent of green cards can be issued in a year to nationals from a given country, regardless of its population.

As the House vote tally indicates, the Fairness for High-Skilled Immigrants Act has wide bipartisan support in the House with 311 cosponsors of the bill. In the Senate, the companion bill (S. 386) has 34 cosponsors who are fairly evenly divided between Republican and Democratic Senators. There are a few Senators who have expressed concerns with the legislation, which makes its passage less certain than in the House.

Supporting Organizations

Numerous immigration and business organizations support eliminating the country caps. While we share the same objective, Worldwide ERC® is staking out its own position on the bill as a unique voice within the business immigration debate.

Status

On 17 September 2019, Senator Mike Lee (R-UT) offered a version of the legislation as an amendment in the Senate but Senators David Purdue (R-GA) and Paul Rand (R-KY) objected over concerns about the lack of future green cards available to filling positions in rural areas experiencing a nursing shortage. An agreement was reached to set aside 7,200 green cards for such positions. It is uncertain, however, as to when the Senate will consider the revised legislation.

2. Protecting Personally Identifiable Information of Transferees

Position of Worldwide ERC®

Worldwide ERC® fully supports the passage of the Moving Americans Privacy Protection Act (S. 1302, H.R. 2521) which would help protect the personally identifiable information (PII) of transferees. Participants of the Worldwide ERC® Hill Day on October 2 asked their members of Congress to cosponsor the legislation.

Background of Issue

The U.S. Customs and Border Protection (CBP) presently sells the manifest data on vessel shipments to companies that post the information online to paid subscribers. The relocation overseas of a transferee can often require the shipping by vessel of personal goods. Making public the personally identifiable information (PII) of the transferee including military personnel exposes them to identity theft, fraud and unwanted solicitations.

Last Congress, the U.S. House of Representatives passed by voice vote the Moving Americans Privacy Protection Act, which would direct the Director of the CBP to remove the PII of individuals prior to making manifest data available for sale. However, the United States Senate did not act on the legislation before the end of the 115th Congress.

Supporting Organizations

Air Force Sergeants Association, American Foreign Service Association, American Moving & Storage Association, Association of the United States Army, Association of the United States Navy, Fleet Reserve Association, International Association of Movers, National Active and Retired Federal Employees Association, National Association of Federally-Insured Credit Unions, National Association of Realtors

Status

With the new Congress, Senators Daines (R-MT) and Peters (D-MI) reintroduced on 2 May 2019 the Moving Americans Privacy Protection Act (S. 1302) and Representatives Crist (D-FL) and Waltz (D-FL) introduced the House companion bill (H.R. 2521) the next day.

The American Moving and Storage Association (AMSA) is leading the legislative efforts of outside organizations to correct the issue. Worldwide ERC[®] is actively involved on the legislation through meetings on Capitol Hill to help enlist cosponsors for the S. 1302 and H.R. 2521. AMSA, Worldwide ERC[®] and other supporters of the bill are pushing the Committees of jurisdiction to mark up the legislation or give their approval for floor consideration under unanimous consent.

3. Reform of Fannie Mae and Freddie Mac

Position of Worldwide ERC[®]

Worldwide ERC[®] has not taken a formal position on efforts to reform Fannie Mae and Freddie Mac. Attendees of the Worldwide ERC[®] Hill Day did, however, convey to

congressional offices the need to ensure the continued availability of mortgages to transferees.

Background of Issue

Earlier this year, President Donald Trump instructed the Treasury Department to draft a plan that would end the federal government's conservatorship over Fannie and Freddie, which began as part of a federal government bailout in response to the 2008 financial crisis. In the years following the financial crisis, the federal government has struggled to agree upon a plan that addresses the future of these institutions. As part of the federal government's conservatorship, all profit made by the mortgage giants is being "swept" into the Treasury Department's account. It is estimated that Fannie and Freddie have now paid the federal government billions of dollars more than they were given as a bailout. The profitability of Fannie and Freddie for the government is another reason Congress has had little incentive to make changes to the current relationship.

Status

In September, the U.S. Department of the Treasury has released its new [Housing Reform Plan](#), which aims to re-privatize mortgage giants Fannie Mae and Freddie Mac. The new 50-point plan outlines how the Trump Administration would like to see Fannie and Freddie recapitalized but getting this accomplished will require the help of both Congress and the Federal Housing Finance Agency (FHFA), something that will be a major undertaking.

4. Simplifying State Tax Rules for Mobile Workforce

Position of Worldwide ERC®

Worldwide ERC® has consistently supported efforts to simplify the tax code for employees who work in states other than where they reside. Accordingly, Worldwide ERC® endorses the Workforce Mobility State Income Tax Simplification Act (S. 604, H.R. 4796). At the Worldwide ERC® Hill Day on 2 October 2019, attendees asked Senate offices to cosponsor the legislation and House offices to introduce a companion bill to S.604.

Background of Issue

The Workforce Mobility State Income Tax Simplification Act is bipartisan legislation that would limit states' ability to tax workers temporarily in the state. Rather than imposing its own rules, a state could only tax a worker after 30 days working in

state. The legislation has been sought by companies nationwide for many years, and would greatly simplify payroll, withholding, and gross-up calculations for Worldwide ERC® member companies.

Worldwide ERC® members typically have employees who are working for short periods in states other than their state of residence. Because every state has its own law as to when such employees become taxable there, and when withholding for that state must begin, Worldwide ERC® members must devote substantial time and resources to properly accounting for wages and withholding for such employees. The legislation would impose a national standard, greatly simplifying that task.

Supporting Organizations

The legislation is supported by the Mobile Workforce Coalition.

Status

The legislation has passed the House three times in the past, but never the Senate. The Senate bill was introduced on February 28 but the House bill was just introduced on 22 October 2019 not too long after the Worldwide ERC® Hill Day. The bill is expected to once again pass the House. While the Senate bill has a bipartisan group of 35 Senators as cosponsors, the legislation remains in Committee and is opposed by a few key Senators.

5. State Issues Affecting Use of Blank Deed in Home Sale Transactions: California

Position of Worldwide ERC®

Worldwide ERC® has long supported the use of a single deed in relocation home sale transactions. A single deed, as opposed to two deeds, saves transfer costs and significantly simplifies the home purchase and sale process. However, issues arise in some states. Worldwide ERC® monitors all state activity, works to educate members as to risks in each state, and where possible advocates to resolve issues that may arise in a particular state. New legislative activity in California may require intervention.

Background of Issue

Use of one deed rather than two in relocation home sale transactions, in which the employer or a relocation management company first purchases the employee's home and then sells it to an unrelated buyer, significantly lowers the cost of the transactions, particularly in states with high transfer or recording costs. It also helps to streamline the process and eliminate a number of administrative steps. However, a number of states have provisions that make use of two deeds advisable. These include, for example, laws that impose two transfer taxes regardless of the deeding, or laws like that in Florida that permit false claims actions in tax matters and led to substantial and costly litigation a number of years ago.

In California in 2019, legislation (AB 1270) was introduced that would make tax matters subject to the state's false claims act. The bill passed the state Assembly in May, but died in committee in the state Senate. If the legislation is enacted, it would open the door for private parties to sue contending, as in Florida, that the mobility industry is defrauding the state of transfer tax revenue by use of the single deed process.

Supporting Organizations

Worldwide ERC® and its relocation management company members are the primary organizations tracking the requirements in each state.

Status

AB 1270 passed the California state Assembly in May, but died in committee in the state Senate on 31 August 2019. The bill is expected to be reintroduced in 2020, and Worldwide ERC® will be monitoring its progress and considering strategies to oppose it.

Worldwide ERC® monitors developments in each state, looks for opportunities to intervene if possible, and provides members with up-to-date status in each state in the form of a chart that is regularly revised. The chart gives members information

as to whether there are circumstances in each state that might merit consideration of the use of two deeds.

6. State withholding on sales of real estate by nonresidents: Maryland

Position of Worldwide ERC®

Transferees selling their home when leaving a state should be considered residents for state withholding purposes, and not subject to withholding on the sale of their home. Transferees from the state of Maryland, as in other withholding states, should be considered residents.

Background of Issue

Some 16 states have laws seeking to collect tax, usually through withholding, on sales or real estate by nonresidents. Maryland is one of those states. Its withholding rate is 7.5% of net proceeds, which will increase to 8% in 2020. In January of 2019, the Maryland Controller changed the state's definition of "resident" to provide that the Assessment Office must show the property as the principal residence on the day of the closing. Although transferees sign an affidavit of residency when turning over the home to the employer or relocation management company, the transferee generally is not a resident at the time of closing of the ultimate sale, leading to demands for withholding. Worldwide ERC®, through the efforts of Tax Forum member John Brennan of Brennan Title Company, has been seeking a relocation exemption from this position so that transferees will continue to be considered residents when their old home is sold.

Supporting Organizations

Worldwide ERC® is the only party seeking the relief.

Status

Worldwide ERC® has been advised that the Controller's office has approved a relocation exemption. A new RELO Addendum will be included in the 2020 Maryland form.