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Capital Chat: Steve Klein of Gerson Preston

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In this installment of Capital Chat, Steve Klein, partner at Gerson Preston, explains what the upcoming Dec. 11 deadline means for the EB-5 program.

The September passing of stopgap legislation which delayed the expiration of the EB-5 Immigrant Investor program has raised a lot of questions for domestic and foreign investors alike. Will the program expire after its temporary deadline of Dec. 11? Will the required investment amount increase? Will the regional center aspect of the program be reformed?

Since we don't have a crystal ball, we sought out the next best thing: an expert opinion. To demystify the ins and outs of the EB-5 program and learn what to expect as Dec. 11 looms, we spoke to Steven Klein, a partner at top public accounting firm Gerson, Preston, Robinson & Co. The company is based in Florida, where 19.4 percent of the population was born on foreign soil, making the state a hub for EB-5 investment. In his 28 years at Gerson Preston, Klein has guided numerous foreign developers and investors through the process in his role as a financial adviser.

Steven Klein, partner at Gerson Preston

What is the incentive for investing in EB-5?

The key incentive in the EB-5 program was, is and always will be for those who are seeking residency in the US. The reason that is so critical is because typically with an investor, their first priority is return on investment. Here, there's a very important non-monetary aspect, and that is to be a U.S. resident. Up until now, it's probably been around 85 percent from China and those areas, and only about 12 percent from Latin America. That's probably going to edge a little bit more toward Latin America as time goes on because of the amount of money coming in here and certain areas where U.S. residency is sought after more than it may have in the past. Many times, we get foreign investors that don't want to be domesticated to the U.S. because there are tremendous tax-reporting implications.

How have you seen the program change over the years?

From what I've heard anecdotally, in terms of the legislation, they're probably looking to increase [the minimum investment amount] from $500,000 to anywhere from $800,000 to $1 million. If you think about it, the program was established in 1990, so going from $500,000 to $1 million in 25 years isn't very dramatic. It represents a viable means, however, the other issue is always the administrative backlog, and the amount of time it takes. As a developer, or even as an investor, you have to be kind of careful as to these variables. The buzz I hear now is from the regional centers around the U.S. that oversee the process.

In Miami, they were saying that ideally, from the center's standpoint, if you look at real estate as one possibility to create viable jobs (which it is), then [the solution to the] problem of young professionals and others who can't afford to live in the urban centers and have to move to outlying areas could be workforce housing and professional housing as a tremendous driving force. What I've seen merge into that conversation are conversations of mixed-use; in other words having some affordable element, some market-rate element, or some retail, social, health and wellness elements to it. South Florida now is in a critical state, in our view, regarding the lack of affordable housing. The market looks great and all, but everything you see going up is very affluent housing being funded by foreign investment and foreign capital, and it will turn into rentals.

Do you foresee more EB-5 capital being invested in affordable housing?

I think so, because what's happening is the developers with track records in that area are really starting to scratch the surface and probably dig a little deeper. The fact is there's a tremendous need for this type of housing, and it's very hard to accomplish it on a purely commercial basis… The bottom line is with affordable housing, there could probably be 50 projects going on, but [with] really what goes through the tax credit program or what's made available at the state level in a given year, South Florida will only get two or three projects. It doesn't do anything near the need. I think somewhere along the line, supply and demand somehow finds a way. If the wheels are greased a little bit for the EB-5 program to be administered in some sort of manageable way in the interest of these developers, I think it's probably heading in that direction.

What risks are associated with the program?

To any developer, time is a risk. The other thing is, whenever you have large sums of money and programs where people are looking for an opportunity to become a resident, in the past those who got involved as intermediaries were less than savory. But if you put that aside and look at it locally as something viable where you have a good set of professionals and good attorneys and counsel and you're dealing with a good regional center, I think you can reduce it to risk associated with the quality of the project and the terms of the project. Bear in mind the required return on an EB-5 investor is less than a commercial investor because their biggest reward is becoming a resident. That's very appealing. If you take a commercial investor and say, "you're going to get 2 percent on a real estate deal," they'd walk away.

If approved permanently, what positive effects will the EB-5 program have on South Florida?

For Miami, one of its greatest challenges is workforce housing in the urban setting. I hope to see [EB-5] happen because I think it would be terrific for the community. Within the urban infill areas, you either have poverty or wealth, and very little in between. In Miami, if you look at the actual workforce and the amount of workforce housing within any approachable commute, it's very challenged.

If you look at the statistics, we're probably on the low end nationally, because every square inch has been devoted to high-end condominium projects and the like. That's great, but I think a void has been created. We don't have a great transportation infrastructure here and if you have a workforce with no place to live, they have to go to the outskirts and face very challenging commuting and access and everything that goes with it – health care, school and et cetera. I think this is a big first step in doing something to put more pressure on improving our infrastructure so we can get out of our own way and create viable housing.