AMENDMENT TO
RULES COMMITTEE PRINT 116-57
OFFERED BY MR. MALINOWSKI OF NEW JERSEY

Add at the end the following:

DIVISION F—HONG KONG
TITLE LX—FREEDOM AND
CHOICE

SEC. 6001. SHORT TITLE.
This title may be cited as the “Hong Kong People’s Freedom and Choice Act”.

SEC. 6002. DEFINITIONS.
For the purposes of this title:

(1) JOINT DECLARATION.—The “Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong” signed on December 19, 1984, and entered into force on May 27, 1985, shall be called the “Sino-British Joint Declaration”.

(2) PRIORITY HONG KONG RESIDENT.—Priority Hong Kong residents shall be defined as lawful residents of Hong Kong and lawful permanent residents of Hong Kong who hold no right to citizenship or
residency in any country or jurisdiction other than the People’s Republic of China (referred to in this title as “PRC”), Hong Kong, or Macau as of the date of enactment of this title and who have resided in Hong Kong for the last 10 years, or the immediate family member of such person.

(3) Appropriate Congressional Committees.—The appropriate congressional committees are defined as—

(A) the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee of the Judiciary of the Senate.

SEC. 6003. FINDINGS.

Congress finds the following:

(1) The National People’s Congress (referred to in this title as “NPC”) of the PRC has committed to pass national security legislation which, if enacted, would—

(A) contravene the will of the people of Hong Kong whose constitution, the Basic Law, provides in Article 23 that the Legislative
Council of Hong Kong shall enact legislation related to national security;

(B) violate the PRC’s commitments under international law, as defined by the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the PRC on the Question of Hong Kong (referred to in this title as “Joint Declaration”), an international treaty signed on December 19, 1984, and entered into force on May 27, 1985; and

(C) cause severe and irreparable damage to the “one country, two systems” principle and further erode global confidence in the PRC’s commitment to international law.

(2) The United States has a long and proud history as a destination for refugees and asylees fleeing persecution based on race, religion, nationality, political opinion, or membership in a particular social group.

(3) The United States also shares deep social, cultural, and economic ties with the people of Hong Kong, including a shared commitment to democracy, to the rule of law, and to the protection of human rights.
(4) The United States has sheltered, protected, and welcomed as American citizens individuals who have fled oppression of authoritarian regimes, including citizens from the PRC following the violent June 4, 1989, crackdown in Tiananmen Square, deepening ties between the people of the United States and those individuals, regardless of nationality, seeking to contribute to a free, open society founded on respect for the rule of law.

(5) The United States has reaped enormous economic, cultural and strategic benefit from welcoming successive generations of scientists, doctors, entrepreneurs, artists, intellectuals, and other freedom-loving people fleeing Fascism, Communism, violent Islamist extremism, and other repressive ideologies, including in the case of Nazi Germany, the Soviet Union and Soviet-controlled Central Europe, Cuba, Vietnam, and Iran.

(6) Offering prospective refuge to those who have contributed the most to Hong Kong’s success would signal to the Chinese Communist Party that repression in Hong Kong would result in losing its immense wealth and talent to the United States.

(7) A major asymmetric advantage of the United States in its long-term strategic competition
with the Communist Party of China is the ability of people from every country in the world, irrespective of their race, ethnicity or religion, to immigrate to the United States and become American citizens.

SEC. 6004. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to continue to reaffirm the principles and objectives set forth in the United States-Hong Kong Policy Act of 1992 (Public Law 102–383), namely that—

(A) the United States has “a strong interest in the continued vitality, prosperity, and stability of Hong Kong”;

(B) “support for democratization is a fundamental principle of United States foreign policy” and therefore “naturally applies to United States policy toward Hong Kong”;

(C) “the human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong and serve as a basis for Hong Kong’s continued economic prosperity”; and

(D) Hong Kong must remain sufficiently autonomous from the PRC to “justify treat-
ment under a particular law of the United States, or any provision thereof, different from that accorded the People’s Republic of China’’;

(2) to continue to support the high degree of autonomy and fundamental rights and freedoms of the people of Hong Kong, as enumerated by—

(A) the Joint Declaration;

(B) the International Covenant on Civil and Political Rights, done at New York December 19, 1966; and

(C) the Universal Declaration of Human Rights, done at Paris December 10, 1948;

(3) to continue to support the democratic aspirations of the people of Hong Kong, including the “ultimate aim” of the selection of the Chief Executive and all members of the Legislative Council by universal suffrage, as articulated in the Basic Law of the Hong Kong Special Administrative Region of the PRC (referred to in this title as the “Basic Law”);

(4) to urge the Government of the PRC, despite its recent actions, to uphold its commitments to Hong Kong, including allowing the people of Hong Kong to govern Hong Kong with a high degree of autonomy and without undue interference, and en-
7

suring that Hong Kong voters freely enjoy the right
to elect the Chief Executive and all members of the
Hong Kong Legislative Council by universal suf-
frage;

(5) to support the establishment of a genuine
democratic option to freely and fairly nominate and
elect the Chief Executive of Hong Kong, and the es-
establishment by 2020 of open and direct democratic
elections for all members of the Hong Kong Legisla-
tive Council;

(6) to support the robust exercise by residents
of Hong Kong of the rights to free speech, the press,
and other fundamental freedoms, as provided by the
Basic Law, the Joint Declaration, and the Interna-
tional Covenant on Civil and Political Rights;

(7) to support freedom from arbitrary or unlaw-
ful arrest, detention, or imprisonment for all Hong
Kong residents, as provided by the Basic Law, the
Joint Declaration, and the International Covenant
on Civil and Political Rights;

(8) to draw international attention to any viola-
tions by the Government of the PRC of the funda-
mental rights of the people of Hong Kong, as pro-
vided by the International Covenant on Civil and Po-
litical Rights, and any encroachment upon the au-
tonomy guaranteed to Hong Kong by the Basic Law and the Joint Declaration;

(9) to protect United States citizens and long-term permanent residents living in Hong Kong, as well as people visiting and transiting through Hong Kong;

(10) to maintain the economic and cultural ties that provide significant benefits to both the United States and Hong Kong;

(11) to coordinate with allies, including the United Kingdom, Australia, Canada, Japan, and the Republic of Korea, to promote democracy and human rights in Hong Kong; and

(12) in the case of the promulgation of new national security legislation in Hong Kong, to review immigration, asylum, and residency regulations such that those residents of Hong Kong fleeing persecution and seeking better opportunities will be welcomed in the United States.

SEC. 6005. PROTECTION FOR HONG KONG RESIDENTS IN THE UNITED STATES.

(a) DESIGNATION.—

(1) IN GENERAL.—For purposes of section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a), Hong Kong shall be treated as if it had
been designated under subsection (b)(1)(C) of that section, subject to the provisions of this section.

(2) **PERIOD OF DESIGNATION.**—The initial period of the designation referred to in paragraph (1) shall be for the 18-month period beginning from such time as the Standing Committee of the NPC of the PRC promulgates national security legislation with respect to Hong Kong that amends Article III of Hong Kong’s Basic Law.

(b) **ALIENS ELIGIBLE.**—As a result of the designation made under subsection (a), an alien who is a resident of Hong Kong is deemed to satisfy the requirements under paragraph (1) of section 244(c) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)), subject to paragraph (3) of such section, if the alien—

(1) has been continuously physically present in the United States since the date of the enactment of this title;

(2) is admissible as an immigrant, except as otherwise provided in paragraph (2)(A) of such section, and is not ineligible for temporary protected status under paragraph (2)(B) of such section; and

(3) registers for temporary protected status in a manner established by the Secretary of Homeland Security.
(c) Consent to Travel Abroad.—

(1) In General.—The Secretary of Homeland Security shall give prior consent to travel abroad, in accordance with section 244(f)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(3)), to an alien who is granted temporary protected status pursuant to the designation made under subsection (a) if the alien establishes to the satisfaction of the Secretary of Homeland Security that emergency and extenuating circumstances beyond the control of the alien require the alien to depart for a brief, temporary trip abroad.

(2) Treatment Upon Return.—An alien returning to the United States in accordance with an authorization described in paragraph (1) shall be treated as any other returning alien provided temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a).

(d) Fee.—

(1) In General.—In addition to any other fee authorized by law, the Secretary of Homeland Security is authorized to charge and collect a fee of $360 for each application for temporary protected status under section 244 of the Immigration and Nation-
ality Act by a person who is only eligible for such status by reason of subsection (a).

(2) WAIVER.—The Secretary of Homeland Security shall permit aliens to apply for a waiver of any fees associated with filing an application referred to in paragraph (1).

SEC. 6006. DIFFERENTIAL TREATMENT OF HONG KONG RESIDENTS FOR IMMIGRATION PURPOSES.

(a) In General.—For not less than 5 years from such time as the President suspends, in whole or in part, special treatment of Hong Kong under United States law, Hong Kong shall continue to be considered a separate foreign state apart from the PRC as mandated in section 103 of Public Law 101–649 and thus Hong Kong shall continue to be treated as a separate foreign state for purposes of a numerical level established under section 1152 of title 8, United States Code.

(b) Regulations.—In order to facilitate the future verification of Hong Kong residency status of visa applicants from the PRC, the Secretary of State shall—

(1) issue regulations within 365 days of enactment establishing a process for Hong Kong residents to register their status with embassies of the United States and the Department of State globally for purposes of adjudicating an individual’s claim to Hong
Kong residency as part of a future visa application for entry to the United States, including through such means as—

(A) recording of biometric data;

(B) official registration and scanning of birth certificates, residency cards, and other documentation establishing long-term residency; and

(C) collection of other personal information, data, and records deemed appropriate by the Secretary;

(2) issue guidance within 180 days of enactment outlining actions to enhance the ability of the Department of State to efficiently share information with the United Kingdom and other allies for purposes of rapidly adjudicating residency of Hong Kong applicants for admission to the United States; and

(3) provide within 180 days of enactment a briefing to the House Committees on Foreign Affairs and Judiciary and the Senate Committees on Foreign Relations and Judiciary on plans to implement the requirements pursuant to paragraphs (1) and (2).
SEC. 6007. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PRC.

(a) In General.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien’s admissibility as an immigrant, and the alien’s eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B),
(C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) faces a fear of persecution on account of his or her political opinion by the PRC of the government or other authorities in the Hong Kong Special Administrative Region;

(2) was born in or has been a resident or permanent resident of Hong Kong for at least 10 years;

(5) has initiated permanent residence in the United States (other than brief, casual, and innocent absences) during the period beginning June 1, 2019, and ending on the date that is 5 years from the date of enactment of this title; and

(6) was not physically present in the PRC for longer than 90 days after the date of establishment of such permanent residence.

(c) CONDITION; DISSEMINATION OF INFORMATION.—
(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the Secretary of State has determined and certified to Congress, before the first day of the application period, that conditions in the PRC permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Secretary of Homeland Security shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b) information respecting the benefits available under this section. To the extent practicable, the Secretary shall provide notice of these benefits to the last known mailing address of each such alien.

(d) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided immigrant visas under this section shall not be counted against any numerical limitation under sections 201, 202, or 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, or 1153).

SEC. 6008. REPORTING REQUIREMENTS.

(a) IN GENERAL.—On an annual basis, the Secretary of State, in consultation with the Secretary of Homeland
Security and other Federal agencies, as appropriate, shall submit a report to the appropriate congressional committees on—

(1) the number of Hong Kong SAR residents who have applied for admittance, been admitted, and been provided permanent residence in the United States during the preceding fiscal year, disaggregated by visa type or residence status, including refugee, temporary protected status, special immigrant visa, and legal permanent residence status provided for under this title;

(2) the number of denials or rejections of applicants, including a description of the basis for denial and disaggregated by the basis for denial and by visa type or residency status during the previous fiscal year;

(3) the number of Hong Kong SAR residents that have applied for political asylum by fiscal year, including number of rejections, and disaggregated by basis for denial during the previous fiscal year; and

(3) other matters deemed relevant by the Secretary on efforts to protect and facilitate the resettlement of refugees and victims of political persecution in Hong Kong.
(b) FORM.—Each report under subsection (a) shall be submitted in unclassified form and published on a text-searchable, publicly-available website of the Department of State.

SEC. 6009. STRATEGY FOR INTERNATIONAL COOPERATION ON HONG KONG.

(a) IN GENERAL.—It is the policy of the United States—

(1) to support the people of Hong Kong by providing temporary relief, refugee status, and appropriate immigration incentives to Hong Kong residents of the Hong Kong Special Administrative Region of the PRC in the event that the PRC enacts legislation that renders certain Hong Kong persons at risk of persecution due to their political beliefs; and

(2) to encourage like-minded nations to make similar accommodations for Hong Kong people fleeing oppression by the Government of the PRC.

(b) PLAN.—The Secretary of State, in consultation with the heads of other Federal agencies, as appropriate, shall develop a plan to engage with other nations, including the United Kingdom, on cooperative efforts to—

(1) provide refugee and asylee protections for victims of, and individuals with a fear of, political
persecution in Hong Kong, either by Hong Kong au-
thorities or other authorities acting on behalf of the PRC;

(2) enhance protocols to facilitate the relocation of refugees and displaced persons from Hong Kong; and

(3) expedite sharing of information, as appro-
priate, related to individual visa or travel document rejections of applicants from the Hong Kong SAR for reasons of—

(A) national security concerns;

(B) fraudulent or corrupt practices related to immigration or victim protection, including refugee and asylee protections; and

(C) fraud and corruption.

(e) REPORT.—Within 90 days of enactment of this title, the Secretary of State or his or her designee shall submit a report on such plan described in paragraphs (1) through (3) of subsection (b) to the appropriate congress-

ional committees.

SEC. 6010. SUNSET.

This title shall sunset on the date that is 5 years after the date of enactment of this title.
TITLE LXI—SAFE HARBOR

SEC. 6101. SHORT TITLE.

This title may be cited as the “Hong Kong Safe Harbor Act”.

SEC. 6102. DESIGNATION OF CERTAIN RESIDENTS OF HONG KONG AS PRIORITY 2 REFUGEES.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall designate as Priority 2 refugees of special humanitarian concern the following categories of aliens:

(1) Individuals who are residents of the Hong Kong Special Administrative Region who suffered persecution, or have a well-founded fear of persecution, on account of their peaceful expression of political opinions or peaceful participation in political activities or associations.

(2) Individuals who have been formally charged, detained, or convicted on account of their peaceful actions as described in section 206(b)(2) the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5726).

(3) The spouses, children, and parents (as such terms are defined in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) of individuals described in paragraph
(1) or (2), except such parents who are citizens of a country other than the People’s Republic of China.

(b) PROCESSING OF HONG KONG REFUGEES.—The processing of individuals described in subsection (a) for classification as refugees may occur in Hong Kong or in a third country.

(c) ELIGIBILITY FOR ADMISSION AS REFUGEES.—An alien may not be denied the opportunity to apply for admission as a refugee under this section primarily because such alien—

(1) qualifies as an immediate relative of a citizen of the United States; or

(2) is eligible for admission to the United States under any other immigrant classification.

(d) FACILITATION OF ADMISSIONS.—An applicant for admission to the United States from the Hong Kong Special Administrative Region may not be denied primarily on the basis of a politically motivated arrest, detention, or other adverse government action taken against such applicant as a result of the participation by such applicant in protest activities.

(e) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided refugee status under this section shall not be counted against any numerical limitation under section
201, 202, 203, or 207 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, 1153, or 1157).

(f) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this title, and every 90 days thereafter, the Secretary of State and the Secretary of Homeland Security shall submit a report on the matters described in paragraph (2) to—

(A) the Committee on the Judiciary and the Committee on Foreign Relations of the Senate; and

(B) the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives.

(2) MATTERS TO BE INCLUDED.—Each report required by paragraph (1) shall include—

(A) the total number of applications that are pending at the end of the reporting period;

(B) the average wait-times for all applicants who are currently pending—

(i) employment verification;

(ii) a prescreening interview with a resettlement support center;
(iii) an interview with U.S. Citizenship and Immigration Services; and
(iv) the completion of security checks;
and
(C) the number of denials of applications for refugee status, disaggregated by the reason for each such denial.

(3) FORM.—Each report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) PUBLIC REPORTS.—The Secretary of State shall make each report submitted under this subsection available to the public on the internet website of the Department of State.

(g) SATISFACTION OF OTHER REQUIREMENTS.—Aliens granted status under this section as Priority 2 refugees of special humanitarian concern under the refugee resettlement priority system shall be considered to satisfy the requirements under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) for admission to the United States.

SEC. 6103. WAIVER OF IMMIGRANT STATUS PRESUMPTION.

(a) IN GENERAL.—The presumption under the first sentence of section 214(b) (8 U.S.C. 1184(b)) that every alien is an immigrant until the alien establishes that the
alien is entitled to nonimmigrant status shall not apply to an alien described in subsection (b).

(b) ALIEN DESCRIBED.—

(1) IN GENERAL.—An alien described in this paragraph is an alien who—

(A) on June 30, 2020, is a resident of the Hong Kong Special Administrative Region;

(B) is seeking entry to the United States to apply for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158); and

(C)(i) had a leadership role in civil society organizations supportive of the protests in 2019 and 2020 relating to the Hong Kong extradition bill and the encroachment on the autonomy of Hong Kong by the People’s Republic of China;

(ii) had an organizing role for such protests;

(iii) acted as a first aid responder for such protests;

(iv) suffered harm while covering such protests as a journalist;
(v) provided paid or pro-bono legal services
to 1 or more individuals arrested for particip-
ing in such protests; or
(vi) during the period beginning on June
9, 2019, and ending on June 30, 2020, was for-
mally charged, detained, or convicted for his or
her participation in such protests.

(2) EXCLUSION.—An alien described in this
paragraph does not include any alien who is a citizen
of a country other than the People’s Republic of
China.

SEC. 6104. REFUGEE AND ASYLUM DETERMINATIONS
UNDER THE IMMIGRATION AND NATION-
ALITY ACT.

(a) PERSECUTION ON ACCOUNT OF POLITICAL OPIN-
ION.—

(1) IN GENERAL.—For purposes of refugee de-
terminations under this title in accordance with sec-
tion 207 of the Immigration and Nationality Act (8
U.S.C. 1157), an individual whose citizenship, na-
tionality, or residency is revoked for having sub-
mited to any United States Government agency a
nonfrivolous application for refugee status, asylum,
or any other immigration benefit under the immigra-
tion laws (as defined in section 101(a) of that Act
(8 U.S.C. 1101(a)) shall be considered to have suffered persecution on account of political opinion.

(2) NATIONALS OF THE PEOPLE’S REPUBLIC OF CHINA.—For purposes of refugee determinations under this title in accordance with section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), a national of the People’s Republic of China whose residency in the Hong Kong Special Administrative region, or any other area within the jurisdiction of the People’s Republic of China, as determined by the Secretary of State, is revoked for having submitted to any United States Government agency a nonfrivolous application for refugee status, asylum, or any other immigration benefit under the immigration laws shall be considered to have suffered persecution on account of political opinion.

(b) CHANGED CIRCUMSTANCES.—For purposes of asylum determinations under this title in accordance with section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), the revocation of the citizenship, nationality, or residency of an individual for having submitted to any United States Government agency a nonfrivolous application for refugee status, asylum, or any other immigration benefit under the immigration laws shall be considered to have suffered persecution on account of political opinion.
considered to be a changed circumstance under subsection (a)(2)(D) of that section.

SEC. 6105. STATEMENT OF POLICY ON ENCOURAGING ALIES AND PARTNERS TO MAKE SIMILAR ACCOMMODATIONS.

It is the policy of the United States to encourage allies and partners of the United States to make accommodations similar to the accommodations made in this title for residents of the Hong Kong Special Administrative Region who are fleeing oppression by the Government of the People’s Republic of China.

SEC. 6106. TERMINATION.

This title shall cease to have effect on the date that is 5 years after the date of the enactment of this title.