Public Law 102-404
102d Congress

An Act

To provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state.

Oct. 9, 1992
[S. 1216]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chinese Student Protection Act of 1992.
8 USC 1255 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese Student Protection Act of 1992".

SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

8 USC 1255 note.

(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) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

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(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China 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 Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(e) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level

under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.

Approved October 9, 1992.

LEGISLATIVE HISTORY—S. 1216:

HOUSE REPORTS: No. 102-826 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 21, considered and passed Senate.
Aug. 10, considered and passed House, amended.
Sept. 23, Senate concurred in House amendment.