

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(2) and (b)(5), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–13, §101(g)(1)(A)(i), substituted “Department of Homeland Security” for “Service” in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 109–13, §101(g)(1)(A)(ii), substituted “Secretary of Homeland Security or the Attorney General” for “Attorney General” in two places.

Subsec. (b). Pub. L. 109–13, §101(g)(1)(B)(ii), substituted “Secretary of Homeland Security or the Attorney General” for “Attorney General” in concluding provisions.

Pub. L. 109–13, §101(g)(1)(B)(i), added introductory provisions and struck out former introductory provisions which read as follows: “Not more than 10,000 of the refugee admissions authorized under section 1157(a) of this title in any fiscal year may be made available by the Attorney General, in the Attorney General’s discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—”.

Subsec. (c). Pub. L. 109–13, §101(g)(1)(C), substituted “Secretary of Homeland Security or the Attorney General” for “Attorney General”.

1996—Subsec. (a)(1). Pub. L. 104–208, §308(g)(3)(A), (4)(A), substituted “1229a” for “1226” and “1231” for “1227” in concluding provisions.

Subsec. (a)(2). Pub. L. 104–208, §371(b)(2), substituted “an immigration judge” for “a special inquiry officer”.

1991—Subsec. (c). Pub. L. 102–232 substituted “subparagraph (A)” for “subparagraphs (A)”.

1990—Subsec. (b). Pub. L. 101–649, §104(a)(1), substituted “10,000” for “five thousand”.

Subsec. (c). Pub. L. 101–649, §603(a)(4), substituted “(4), (5), and (7)(A)” for “(14), (15), (20), (21), (25), and (32)” and “(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))” for “(other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(3)(A), (4)(A) of Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

Amendment by section 371(b)(2) of Pub. L. 104–208 effective Sept. 30, 1996, see section 371(d)(1) of Pub. L. 104–208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–232, title III, §307(l), Dec. 12, 1991, 105 Stat. 1756, provided that the amendment made by section 307(l) is effective as if included in section 603(a) of the Immigration Act of 1990, Pub. L. 101–649.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–649, title I, §104(a)(2), Nov. 29, 1990, 104 Stat. 4985, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157] for fiscal year 1991 in order to make such amendment effective for such fiscal year.”

Amendment by section 603(a)(4) of Pub. L. 101–649 applicable to individuals entering United States on or

after June 1, 1991, see section 601(e)(1) of Pub. L. 101–649, set out as a note under section 1101 of this title.

EFFECTIVE DATE

Section effective, except as otherwise provided, Mar. 17, 1980, and applicable to fiscal years beginning with the fiscal year beginning Oct. 1, 1979, see section 204 of Pub. L. 96–212, set out as an Effective Date of 1980 Amendment note under section 1101 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES; ADJUSTMENT OF CERTAIN FORMER ASYLEES

Pub. L. 101–649, title I, §104(c), (d), Nov. 29, 1990, 104 Stat. 4985, as amended by Pub. L. 104–208, div. C, title VI, §604(b)(2), Sept. 30, 1996, 110 Stat. 3009–694, provided that:

“(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act [8 U.S.C. 1159(b)] shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990.

“(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.—

“(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act [8 U.S.C. 1159(b)] shall also apply to an alien—

“(A) who was granted asylum before the date of the enactment of this Act [Nov. 29, 1990] (regardless of whether or not such asylum has been terminated under section 208 of the Immigration and Nationality Act [8 U.S.C. 1158]),

“(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

“(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and Nationality Act as of the date of the enactment of this Act but for paragraphs (2) and (3) thereof and but for any numerical limitation under such section.

“(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number of aliens who are natives of any foreign state who may adjust status pursuant to paragraph (1) in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Immigration and Nationality Act [8 U.S.C. 1152(a)] and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of such Act.”

[Section 104(c), (d) of Pub. L. 101–649 effective Nov. 29, 1990, and (unless otherwise provided) applicable to fiscal year 1991, see section 161(b) of Pub. L. 101–649, set out as an Effective Date of 1990 Amendment note under section 1101 of this title.]

§ 1160. Special agricultural workers

(a) Lawful residence

(1) In general

The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

(A) Application period

The alien must apply for such adjustment during the 18-month period beginning on the

first day of the seventh month that begins after November 6, 1986.

(B) Performance of seasonal agricultural services and residence in the United States

The alien must establish that he has—

- (i) resided in the United States, and
- (ii) performed seasonal agricultural services in the United States for at least 90 man-days,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

(C) Admissible as immigrant

The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

(2) Adjustment to permanent residence

The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

(A) Group 1

Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 man-days during each of the 12-month periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

(B) Group 2

In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

(C) Numerical limitation

Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

(3) Termination of temporary residence

(A) During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this chapter that the alien is deportable.

(B) Before any alien becomes eligible for adjustment of status under paragraph (2), the Attorney General may deny adjustment to permanent status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

- (i) the Attorney General finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set out in section 1182(a)(6)(C)(i) of this title, or
- (ii) the alien commits an act that (I) makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(2), or (II) is convicted of a felony or 3 or more misdemeanors committed in the United States.

(4) Authorized travel and employment during temporary residence

During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

(5) In general

Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 1101(a)(20) of this title), other than under any provision of the immigration laws.

(b) Applications for adjustment of status

(1) To whom may be made

(A) Within the United States

The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

- (i) with the Attorney General, or
- (ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

(B) Outside the United States

The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

(2) Designation of entities to receive applications

For purposes of receiving applications under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 1159 or 1255 of this title, Public Law 89-732 [8 U.S.C. 1255 note], or Public Law 95-145 [8 U.S.C. 1255 note].

(3) Proof of eligibility

(A) In general

An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

(B) Documentation of work history

(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

(4) Treatment of applications by designated entities

Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(5) Limitation on access to information

Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an

alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6) of this subsection.

(6) Confidentiality of information

(A) In general

Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, including a determination under subsection (a)(3)(B), or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

(B) Required disclosures

The Attorney General shall provide information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(C) Construction

(i) In general

Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) Criminal convictions

Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) Crime

Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than \$10,000.

(7) Penalties for false statements in applications

(A) Criminal penalty

Whoever—

(i) files an application for adjustment of status under this section and knowingly

and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18 or imprisoned not more than five years, or both.

(B) Exclusion

An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 1182(a)(6)(C)(i) of this title.

(c) Waiver of numerical limitations and certain grounds for exclusion

(1) Numerical limitations do not apply

The numerical limitations of sections 1151 and 1152 of this title shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) Waiver of grounds for exclusion

In the determination of an alien's admissibility under subsection (a)(1)(C)—

(A) Grounds of exclusion not applicable

The provisions of paragraphs (5) and (7)(A) of section 1182(a) of this title shall not apply.

(B) Waiver of other grounds

(i) In general

Except as provided in clause (ii), the Attorney General may waive any other provision of section 1182(a) of this title in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii) Grounds that may not be waived

The following provisions of section 1182(a) of this title may not be waived by the Attorney General under clause (i):

(I) Paragraphs (2)(A) and (2)(B) (relating to criminals).

(II) Paragraph (4) (relating to aliens likely to become public charges).

(III) Paragraph (2)(C) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana.

(IV) Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof.

(C) Special rule for determination of public charge

An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 1182(a)(4) of this title if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(d) Temporary stay of exclusion or deportation and work authorization for certain applicants

(1) Before application period

The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) During application period

The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(3) Use of application fees to offset program costs

No application fees collected by the Service pursuant to this subsection may be used by the Service to offset the costs of the special agricultural worker legalization program until the Service implements the program consistent with the statutory mandate as follows:

(A) During the application period described in subsection (a)(1)(A) the Service may grant temporary admission to the United States, work authorization, and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this chapter.

(B) During the application period described in subsection (a)(1)(A) any alien who has filed an application for adjustment of status within the United States as provided in subsection (b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United

States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.

(e) Administrative and judicial review

(1) Administrative and judicial review

There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) Administrative review

(A) Single level of administrative appellate review

The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) Standard for review

Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) Judicial review

(A) Limitation to review of exclusion or deportation

There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 1105a of this title (as in effect before October 1, 1996).

(B) Standard for judicial review

Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(f) Temporary disqualification of newly legalized aliens from receiving aid to families with dependent children

During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]. Notwithstanding the previous sentence, in the case of an alien who would be eligible for assistance under a State program funded under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 1255a(h) of this title shall apply in the same manner as they apply with respect to paragraph

(1) of such section and, for this purpose, any reference in section 1255a(h)(3) of this title to paragraph (1) is deemed a reference to the previous sentence.

(g) Treatment of special agricultural workers

For all purposes (subject to subsections (a)(5) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 1101(a)(20) of this title).

(h) "Seasonal agricultural services" defined

In this section, the term "seasonal agricultural services" means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.

(June 27, 1952, ch. 477, title II, ch. 1, §210, as added Pub. L. 99-603, title III, §302(a)(1), Nov. 6, 1986, 100 Stat. 3417; amended Pub. L. 100-202, §101(a) [title II, §211], Dec. 22, 1987, 101 Stat. 1329, 1329-18; Pub. L. 100-525, §2(m), Oct. 24, 1988, 102 Stat. 2613; Pub. L. 101-238, §4, Dec. 18, 1989, 103 Stat. 2103; Pub. L. 101-649, title VI, §603(a)(5), Nov. 29, 1990, 104 Stat. 5082; Pub. L. 102-232, title III, §§307(j), 309(b)(6), Dec. 12, 1991, 105 Stat. 1756, 1758; Pub. L. 103-416, title II, §219(d), (z)(7), Oct. 25, 1994, 108 Stat. 4316, 4318; Pub. L. 104-132, title IV, §431(b), Apr. 24, 1996, 110 Stat. 1273; Pub. L. 104-193, title I, §110(s)(1), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 104-208, div. C, title III, §§308(g)(2)(B), 384(d)(1), title VI, §623(b), Sept. 30, 1996, 110 Stat. 3009-622, 3009-653, 3009-697.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(3)(A) and (d)(3)(A), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Public Law 89-732, referred to in subsec. (b)(2)(B), is Pub. L. 89-732, Nov. 2, 1966, 80 Stat. 1161, as amended, which is set out as a note under section 1255 of this title.

Public Law 95-145, referred to in subsec. (b)(2)(B), is Pub. L. 95-145, Oct. 28, 1977, 91 Stat. 1223, as amended. Title I of Pub. L. 95-145 is set out as a note under section 1255 of this title. Title II of Pub. L. 95-145 amended Pub. L. 94-23, which was set out as a note under section 2601 of Title 22, Foreign Relations and Intercourse, and was repealed by Pub. L. 96-212, title III, §312(c), Mar. 17, 1980, 94 Stat. 117.

Section 1105a of this title, referred to in subsec. (e)(3)(A), was repealed by Pub. L. 104-208, div. C, title III, §306(b), Sept. 30, 1996, 110 Stat. 3009-612.

The Social Security Act, referred to in subsec. (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (b)(5). Pub. L. 104-132, §431(b)(1), inserted before period at end " , except as allowed by a court order issued pursuant to paragraph (6) of this subsection".

Subsec. (b)(6). Pub. L. 104-208, §623(b), amended par. (6) generally, substituting subpars. (A) to (D) for former subpars. (A) to (C) and introductory and concluding provisions, relating to confidentiality of information.

Pub. L. 104-208, §384(d)(1), substituted "Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than \$5,000 for each violation." for "Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18 or imprisoned not more than five years, or both." in concluding provisions.

Pub. L. 104-132, §431(b)(2), inserted before "Anyone who uses" in concluding provisions "Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien."

Subsec. (e)(3)(A). Pub. L. 104-208, §308(g)(2)(B), inserted "(as in effect before October 1, 1996)" after "section 1105a of this title".

Subsec. (f). Pub. L. 104-193 substituted "assistance under a State program funded under" for "aid under a State plan approved under" in two places.

1994—Subsec. (d)(3). Pub. L. 103-416, §219(d), inserted "the" before first reference to "Service" in introductory provisions.

Subsec. (d)(3)(B). Pub. L. 103-416, §219(z)(7), made technical correction to Pub. L. 102-232, §309(b)(6)(F). See 1991 Amendment note below.

1991—Subsec. (b)(7)(B). Pub. L. 102-232, §307(j), substituted "section 1182(a)(6)(C)(i)" for "section 1182(a)(19)".

Subsec. (d)(3). Pub. L. 102-232, §309(b)(6)(A)-(C), realigned margins of par. (3) and its subparagraphs, and in introductory provisions substituted "Service" for "the Immigration and Naturalization Service (INS)" and "Service" for "INS" in two places.

Subsec. (d)(3)(A). Pub. L. 102-232, §309(b)(6)(D), (E), substituted "period described in" for "period as defined in" and "Service" for "INS", and made technical amendment to reference to this chapter involving corresponding provision of original act.

Subsec. (d)(3)(B). Pub. L. 102-232, §309(b)(6)(F), as amended by Pub. L. 103-416, §219(z)(7), substituted "described in subsection (a)(1)(A)" for "as defined in subsection (a)(B)(1)(B)".

Pub. L. 102-232, §309(b)(6)(G), made technical amendment to reference to subsection (b)(1)(A) of this section involving corresponding provision of original act.

1990—Subsec. (a)(3)(B)(i). Pub. L. 101-649, §603(a)(5)(A), substituted "1182(a)(6)(C)(i)" for "1182(a)(19)".

Subsec. (c)(2)(A). Pub. L. 101-649, §603(a)(5)(B), substituted "(5) and (7)(A)" for "(14), (20), (21), (25), and (32)".

Subsec. (c)(2)(B)(i)(I). Pub. L. 101-649, §603(a)(5)(C), substituted "Paragraphs (2)(A) and (2)(B)" for "Paragraph (9) and (10)".

Subsec. (c)(2)(B)(ii)(II). Pub. L. 101-649, §603(a)(5)(D), substituted "(4)" for "(15)".

Subsec. (c)(2)(B)(ii)(III). Pub. L. 101-649, §603(a)(5)(E), substituted "(2)(C)" for "(23)".

Subsec. (c)(2)(B)(ii)(IV). Pub. L. 101-649, §603(a)(5)(F), substituted "Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof" for "Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations)".

Subsec. (c)(2)(B)(ii)(V). Pub. L. 101-649, §603(a)(5)(G), struck out subcl. (V) which referred to par. (33).

Subsec. (c)(2)(C). Pub. L. 101-649, §603(a)(5)(H), substituted "1182(a)(4)" for "1182(a)(15)".

1989—Subsec. (a)(3). Pub. L. 101-238, §4(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b)(6)(A). Pub. L. 101-238, §4(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7)."

1988—Subsec. (g). Pub. L. 100-525 substituted "subsections (a)(5) and (f)" for "subsections (b)(3) and (f)".

1987—Subsec. (d)(3). Pub. L. 100-202 added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 308(g)(2)(B) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Pub. L. 104-208, div. C, title III, §384(d)(2), Sept. 30, 1996, 110 Stat. 3009-653, provided that: "The amendments made by this subsection [amending this section and section 1255a of this title] shall apply to offenses occurring on or after the date of the enactment of this Act [Sept. 30, 1996]."

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-416, title II, §219(z), Oct. 25, 1994, 108 Stat. 4318, provided that the amendment made by subsec. (z)(7) of that section is effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991, Pub. L. 102-232.

Amendment by section 219(d) of Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-232, title III, §307(j), Dec. 12, 1991, 105 Stat. 1756, provided that the amendment made by section 307(j) is effective as if included in section 603(a)(5) of the Immigration Act of 1990, Pub. L. 101-649.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to applications for adjustment of status made on or after June 1, 1991, see section 601(e)(2) of Pub. L. 101-649, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

COMMISSION ON AGRICULTURAL WORKERS

Pub. L. 99-603, title III, §304, Nov. 6, 1986, 100 Stat. 3431, as amended by Pub. L. 101-649, title VII, §704, Nov. 29, 1990, 104 Stat. 5086; Pub. L. 102-232, title III, §308(c), Dec. 12, 1991, 105 Stat. 1757, established Commission on

Agricultural Workers to evaluate special agricultural worker provisions and labor markets in agricultural industry, required Commission to report to Congress not later than six years after Nov. 6, 1986, on its reviews, and provided that Commission terminate at the end of the 75-month period beginning with the month after November 1986.

§ 1161. Repealed. Pub. L. 103-416, title II, § 219(ee)(1), Oct. 25, 1994, 108 Stat. 4319

Section, act June 27, 1952, ch. 477, title II, ch. 1, § 210A, as added Nov. 6, 1986, Pub. L. 99-603, title III, § 303(a), 100 Stat. 3422; amended Oct. 24, 1988, Pub. L. 100-525, § 2(n)(1), 102 Stat. 2613; Nov. 29, 1990, Pub. L. 101-649, title VI, § 603(a)(6), (b)(1), 104 Stat. 5083, 5085; Dec. 12, 1991, Pub. L. 102-232, title III, § 307(l)(2), 105 Stat. 1756, related to determination of agricultural labor shortages and admission of additional special agricultural workers.

EFFECTIVE DATE OF REPEAL

Pub. L. 103-416, title II, § 219(ee)(3), as added by Pub. L. 104-208, div. C, title VI, § 671(b)(10), Sept. 30, 1996, 110 Stat. 3009-722, provided that: "The amendments made by this subsection [repealing this section] shall take effect on the date of the enactment of this Act [Oct. 25, 1994]."

PART II—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

§ 1181. Admission of immigrants into the United States

(a) Documents required; admission under quotas before June 30, 1968

Except as provided in subsection (b) and subsection (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

(b) Readmission without required documents; Attorney General's discretion

Notwithstanding the provisions of section 1182(a)(7)(A) of this title in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 1101(a)(27)(A) of this title, who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

(c) Nonapplicability to aliens admitted as refugees

The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 1157 of this title.

(June 27, 1952, ch. 477, title II, ch. 2, § 211, 66 Stat. 181; Pub. L. 89-236, § 9, Oct. 3, 1965, 79 Stat. 917; Pub. L. 94-571, § 7(c), Oct. 20, 1976, 90 Stat. 2706; Pub. L. 96-212, title II, § 202, Mar. 17, 1980, 94 Stat. 106; Pub. L. 101-649, title VI, § 603(a)(7), Nov. 29, 1990, 104 Stat. 5083.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-649 substituted "1182(a)(7)(A)" for "1182(a)(20)".

1980—Subsec. (a). Pub. L. 96-212, § 202(1), inserted reference to subsection (c) of this section.

Subsec. (c). Pub. L. 96-212, § 202(2), added subsec. (c). 1976—Subsec. (b). Pub. L. 94-571 substituted reference to section 1101 "(a)(27)(A)" of this title for "(a)(27)(B)".

1965—Subsec. (a). Pub. L. 89-236 restated requirement of an unexpired visa and passport for every immigrant arriving in United States to conform to the changes with respect to the classification of immigrant visas.

Subsec. (b). Pub. L. 89-236 substituted "returning resident immigrants, defined in section 1101(a)(27)(B) of this title, who are otherwise admissible", for "otherwise admissible aliens lawfully admitted for permanent residence who depart from the United States temporarily".

Subsec. (c). Pub. L. 89-236 repealed subsec. (c) which gave Attorney General discretionary authority to admit aliens who arrive in United States with defective visas under specified conditions.

Subsec. (d). Pub. L. 89-236 repealed subsec. (d) which imposed restrictions on exercise of Attorney General's discretion to admit aliens arriving with defective visas.

Subsec. (e). Pub. L. 89-236 repealed subsec. (e) which required every alien making application for admission as an immigrant to present the documents required under regulations issued by Attorney General.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-212 effective Mar. 17, 1980, and applicable to fiscal years beginning with the fiscal year beginning Oct. 1, 1979, see section 204 of Pub. L. 96-212, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1182. Inadmissible aliens

(a) Classes of aliens ineligible for visas or admission

Except as otherwise provided in this chapter, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) Health-related grounds

(A) In general

Any alien—