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TITLE 8—ALIENS AND NATIONALITY

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Purportedly present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien’s admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States, except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(J) [probably means section 204(a)(1)(J) of the Immigration and Nationality Act, which is classified to section 1154(a)(1)(J) of this title]. An alien who was the spouse of any Cuban alien described in this section and has resided with such spouse shall continue to be treated as such a spouse for 2 years after the date on which the Cuban alien dies (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) [Jan. 5, 2006], or for 2 years after the date of termination of the marriage (or, if later, 2 years after the date of enactment of Violence Against Women and Department of Justice Reauthorization Act of 2005) if there is demonstrated a connection between the termination of the marriage and the battering or extreme cruelty by the Cuban alien.

"SEC. 2. In the case of any alien described in section 1 of this Act who prior to the effective date thereof [Nov. 2, 1966], has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act [Nov. 2, 1966], whichever date is later.

"SEC. 3. Section 13 of the Act entitled ‘An Act to amend the Immigration and Nationality Act, and for other purposes’, approved October 3, 1965 (Public Law 89–236) [amending subsecs. (b) and (c) of this section] is amended by adding at the end thereof the following new subsection:

‘‘(b) Nothing contained in subsection (a) of this section (amending subsec. (c) of this section) shall be construed to affect the validity of any application for adjustment under section 245 [this section] filed with the Attorney General prior to December 1, 1965, which would have been valid on that date; but as to all such applications the statutes or parts of statutes repealed or amended by this Act [Pub. L. 89–236] are, unless otherwise specifically provided therein, continued in force and effect.

‘‘SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101(a) and (b) of the Immigration and Nationality Act [section 1101(a), (b) of this title] shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization.

‘‘SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976 [see Effective Date of 1976 Amendment note above].’’


§ 1255a. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence

(n) Temporary resident status

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

(1) Timely application

(A) During application period

Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after November 6, 1986) designated by the Attorney General.

(B) Application within 30 days of show-cause order

An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A) or any later date under section 1154(a) of this title, is the subject of an order to show cause issued under section 1252 of this title (as in effect before October 1, 1996), must make application under this section not later than the end of the 30-day period beginning either on the first day of such 12-month period or on the date of the issuance of such order, whichever day is later.

(C) Information included in application

Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 1154(a) of this title.

(2) Continuous unlawful residence since 1982

(A) In general

The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.
(B) Nonimmigrants

In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien’s period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien’s unlawful status was known to the Government as of such date.

(C) Exchange visitors

If the alien was at any time a non-immigrant exchange alien (as defined in section 1101(a)(15)(J) of this title), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 1182(e) of this title or has fulfilled that requirement or received a waiver thereof.

(3) Continuous physical presence since November 6, 1986

(A) In general

The alien must establish that the alien has been continuously physically present in the United States since November 6, 1986.

(B) Treatment of brief, casual, and innocent absences

An alien shall not be considered to have failed to maintain continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

(C) Admissions

Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

(4) Admissible as immigrant

The alien must establish that he—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(D) is registered or registering under the Military Selective Service Act [50 U.S.C. 3801 et seq.], if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422 [8 U.S.C. 1522 note] shall be considered to have entered the United States and to be in an unlawful status in the United States.

(b) Subsequent adjustment to permanent residence and nature of temporary resident status

(1) Adjustment to permanent residence

The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) Timely application after one year’s residence

The alien must apply for such adjustment during the 2-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

(B) Continuous residence

(i) In general

The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

(ii) Treatment of certain absences

An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

(C) Admissible as immigrant

The alien must establish that he—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

(D) Basic citizenship skills

(i) In general

The alien must demonstrate that he either—

(I) meets the requirements of section 1423(a) of this title (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

(ii) Exception for elderly or developmentally disabled individuals

The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older or who is developmentally disabled.

(iii) Relation to naturalization examination

In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 1423(a) of this title may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under subchapter III.

(2) Termination of temporary residence

The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—
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(c) Applications for adjustment of status

section (a)—

(1) To whom may be made

Applications for adjustment of status under subsection (a) may be filed—

(2) Designation of qualified entities to receive

person designated under paragraph (2). designated entity'' means an organization or

Attorney General—

legalization provided under this section, the

States; or

misdemeanors committed in the United

convicted of any felony or three or more

States as an immigrant, except as otherwise

provided under subsection (d)(2), or (ii) is

that the alien was in fact not eligible for

status, unless the alien has filed an applica-

tion for adjustment of such status pursuant
to paragraph (1) and such application has

not been denied.

(3) Authorized travel and employment during temporary residence

During the period an alien is in lawful tem-

porary resident status granted under sub-

section (a)—

(A) Authorization of travel abroad

The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad oc-
casioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

(B) Authorization of employment

The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an ''employment authorized'' endorsement or other appropriate work permit.

(c) Applications for adjustment of status

(1) To whom may be made

The Attorney General shall provide that applica-
tions for adjustment of status under sub-

section (a) may be filed—

(A) with the Attorney General, or

(B) with a qualified designated entity, but only if the applicant consents to the for-

warding of the application to the Attorney

General.

As used in this section, the term “qualified designated entity” means an organization or person designated under paragraph (2).

(2) Designation of qualified entities to receive applications

For purposes of assisting in the program of legalization provided under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstr-ated 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) Treatment of applications by designated entities

Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with para-

graph (1)(B) but not to forward to the Attor-

ney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determina-
tion required by this section to be made by the Attorney General.

(4) Limitation on access to information

Files and records of qualified designated enti-
ties relating to an alien’s seeking assistance or information with respect to filing an application 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.

(5) Confidentiality of information

(A) In general

Except as provided in this paragraph, nei-

ther the Attorney General, nor any other of-

ficial or employee of the Department of Jus-
tice, 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, for enforcement of paragraph (6), or for the preparation of reports to Con-

gress under section 404 of the Immigration Reform and Control Act of 1986;

(ii) make any publication whereby the information furnished by any particular applicant 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 ap-

plications filed with a designated entity, that designated entity, to examine individ-

ual applications.

(B) Required disclosures

The Attorney General shall provide the in-

formation 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 pur-

poses of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(C) Authorized disclosures

The Attorney General may provide, in the Attorney General’s discretion, for the furn-

ishing of information furnished under this section in the same manner and circum-

stances as census information may be dis-

closed by the Secretary of Commerce under section 8 of title 13.

(D) Construction

(i) In general

Nothing in this paragraph shall be con-

strued to limit the use, or release, for im-

migration 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.

(E) Crime

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

(6) Penalties for false statements in applications

Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statement or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with the Attorney General under clause (i):

(A) Fee schedule

The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1). The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A).

(B) Use of fees

The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

(C) Immigration-related unfair employment practices

Not to exceed $3,000,000 of the unobligated balances remaining in the account established in subparagraph (B) shall be available in fiscal year 1992 and each fiscal year thereafter for grants, contracts, and cooperative agreements to community-based organizations for outreach programs, to be administered by the Office of Special Counsel for Immigration-Related Unfair Employment Practices: Provided, That such amounts shall be in addition to any funds appropriated to the Office of Special Counsel for such purposes: Provided further, That none of the funds made available by this section shall be used by the Office of Special Counsel to establish regional offices.

(d) 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 subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

(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 criminal)

(II) 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

(III) Paragraph (3) (relating to security and related grounds)

(IV) Paragraph (4) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence

Subclause (IV) (prohibiting the waiver of section 1182(a)(4) of this title) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act [42 U.S.C. 1382c(a)(1)])

(iii) 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 receipt of public cash assistance.

(C) Medical examination

The alien shall be required, at the alien’s expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.
(e) Temporary stay of 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)(A) and who can establish a prima facie 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 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 prima facie 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 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.

(f) 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) No review for late filings

No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

(3) 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 a determination described in paragraph (1).

(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.

(4) Judicial review

(A) Limitation to review of deportation

There shall be judicial review of such a denial only in the judicial review of an order of 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.

(C) Jurisdiction of courts

Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legal representative of the Service but had the application and fee refused by that officer.

(g) Implementation of section

(1) Regulations

The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

(A) regulations establishing a definition of the term "resided continuously", as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

(B) such other regulations as may be necessary to carry out this section.

(2) Considerations

In prescribing regulations described in paragraph (1)(A)—

(A) Periods of continuous residence

The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

(B) Absences caused by deportation or advanced parole

The Attorney General shall provide that—

(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.
(C) Waivers of certain absences

The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(D) Use of certain documentation

The Attorney General shall require that—

(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

(3) Interim final regulations

Regulations prescribed under this section may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

(h) Temporary disqualification of newly legalized aliens from receiving certain public welfare assistance

(1) In general

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—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the State program of assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]), and

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and

(iii) assistance under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.];

and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance to be permanently residing in the United States under color of law.

(2) Exceptions

Paraphraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422 [8 U.S.C. 1255 note], as in effect on April 1, 1983), or

(B) in the case of assistance (other than assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act [42 U.S.C. 1382c(a)(1)]).

(3) Restricted medicaid benefits

(A) Clarification of entitlement

Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

(B) Restriction of benefits

(i) Limitation to emergency services and services for pregnant women

Notwithstanding any provision of title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act [42 U.S.C. 1396a(a)(10)(B), (C)], aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act [42 U.S.C. 1396a(a)(2)(D)]), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

(ii) No restriction for exempt aliens and children

The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

(C) Definition of medical assistance

In this paragraph, the term “medical assistance” refers to medical assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(4) Treatment of certain programs

Assistance furnished under any of the following provisions of law shall not be construed
to be financial assistance described in paragraph (1)(A)(i):


(B) The Child Nutrition Act of 1966 [42 U.S.C. 1717 et seq.].


(D) Title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2001 et seq.].


(F) Title I of the Workforce Innovation and Opportunity Act [29 U.S.C. 3111 et seq.].

(G) Title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.].

(H) The Public Health Service Act [42 U.S.C. 201 et seq.].


(5) Adjustment not affecting Fassell-Stone benefits

For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–122), which is classified principally to chapter 49 (§3801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

Public Law 96–422, referred to in subsecs. (a) and (h)(2)(A), is Pub. L. 96–422, Oct. 10, 1980, 94 Stat. 1790, as amended, which is known as the Refugee Education Assistance Act of 1980, and is set out as a note under section 1522 of this title.


(i) Dissemination of information on legalization program

Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.


The Elementary and Secondary Education Act of 1965, referred to in subsec. (h)(4)(D), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended, Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.


The Public Health Service Act, referred to in subsec. (h)(4)(H), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§201 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables.


MENDMENTS

Prior Provisions

A prior section 1255a, Pub. L. 85-316, §9, Sept. 11, 1957, 71 Stat. 557, was redesignated as former subcl. (II) of subpar. (B) to reflect the probable intent of Congress. August 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 6A (§201 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Tables.

Amendments


1991—Subsec. (c)(7)(C). Pub. L. 103-416, §21(h)(1), realigned margins and substituted “subparagraph (B)” for “subparagraph (B)”. Pub. L. 102-140, which directed the addition “after subsection (B)” of “a new subsection” (C), was executed by adding subpar. (D) after subpar. (B) to reflect the probable intent of Congress.

1988—Subsec. (c)(7)(C). Pub. L. 102-335 substituted “State program of assistance” for “program of aid to families with dependent children”.


1966—Subsec. (b)(2)(B). Pub. L. 90-65 which directed the addition “after subsection (B)” to reflect the probable intent of Congress.


1963—Subsec. (b)(2)(B). Pub. L. 88-25 which directed the addition “after subsection (B)” to reflect the probable intent of Congress.
which such alien is granted lawful temporary residence Act or section 212 of Public Law 93–66 for the month in
status under subsection (a) of this section” after “per-
gible for benefits under title XVI of the Social Security
substituted “(4)” for “(15)”.
provide, in the Attorney General’s discretion, for the
closing provisions generally without change.
and inserted “except that the Attorney General may
section 1182(a)(15) of this title) shall not apply to an
ual and disabled (as defined in section 1614(a)(1) of the Social Secu-
rity Act.”.
110–246 effective Oct. 1, 2008, see section 4407 of Pub. L.
110–246 effective, with certain transitional provi-
sions, 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.
Part VIII. Title 8.
Pub. L. 104–193 effective July 1, 2007, with transition rules relating to State options to accele-
the date set out as a note under section 1101 of this title.
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
Effective Date of 1991 Amendment
Amendment by section 384(d)(1) of Pub. L. 104–208 applicable to offenses occurring on or after Sept. 30, 1996, see section 384(d)(2) of Pub. L. 104–208, set out as a note under section 1101 of this title.
Effective Date of 1990 Amendment
Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accel-
the date set out as a note under section 1101 of this title.
Effective Date of 1988 Amendment
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.
Report on Citizenship of Certain Legalized Aliens
Pub. L. 105–416, title I, § 109, Oct. 23, 1994, 108 Stat. 4310, provided that not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service was to prepare and submit to the Congress a re-
Statutory Notes and Related Subsidiaries
Effective Date of 2014 Amendment
Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 5001 of Title 29, Labor.
Effective Date of 2008 Amendment
port concerning the citizenship status of aliens legalized under this section and section 1160 of this title.

**FAMILY UNITY**


(a) **TEMPORARY STATUS OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN LEGALIZED IMMIGRANTS**—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of May 5, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A)), who has entered the United States before such date, who resided in the United States on such date, and who is not lawfully admitted for permanent residence, the alien—

1 may not be removed or otherwise required to depart from the United States on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 237(a) of the Immigration and Nationality Act [8 U.S.C. 1227(a)] (other than so much of section 237(a)(1)(A) of such Act as relates to a ground of inadmissibility described in paragraph (2) or (3) of section 212(a) of such Act [8 U.S.C. 1182(a)]), and

2 shall be granted authorization to engage in employment in the United States and be provided an ‘employment authorized’ endorsement or other appropriate work permit.

(b) **ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED**—In this section:

1. The term ‘eligible immigrant’ means a qualified immigrant who is the spouse or unremarried child of a legalized alien.

2. The term ‘legalized alien’ means an alien lawfully admitted for temporary or permanent residence who was provided—

\(\text{‘(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act [8 U.S.C. 1156].'}\)

\(\text{‘(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act [8 U.S.C. 1255a].'}\)


(c) **APPLICATION OF DEFINITIONS**—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section.

(d) **TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE**—Aliens provided the benefits of this section by virtue of their relationship to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(b) or 210(f), respectively, of the Immigration and Nationality Act [8 U.S.C. 1255a(b), 1101(f)].

(e) **EXCEPTION FOR CERTAIN ALIENS**—An alien is not eligible for the benefits of this section if the Attorney General finds that—

1. the alien has been convicted of a felony or 3 or more misdemeanors in the United States.

2. the alien is described in section 230(b)(2)(A) of the Immigration and Nationality Act [8 U.S.C. 1156(b)(2)(A)].

3. [the alien] has committed an act of juvenile delinquency which if committed by an adult would be classified as—

\(\text{‘(a) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or'}\)

\(\text{‘(b) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.'}\)

(f) **CONSTRUCTION**—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

(g) **EFFECTIVE DATE**—This section shall take effect on October 1, 1991, except that the delay in effectiveness of this section shall not be construed as reflecting a congressional belief that the existing family fairness program should be modified in any way before such date.


**USE OF CAPITAL ASSETS BY IMMIGRATION AND NATURALIZATION SERVICE**

Pub. L. 101–162, title II, Nov. 21, 1989, 103 Stat. 1000, provided: "That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes."

**ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE**

Pub. L. 100–204, title IX, § 902, Dec. 22, 1987, 101 Stat. 1400, provided that:

1. "(a) **ADJUSTMENT OF STATUS**—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) ‘extended voluntary departure’ by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

\(\text{‘(1) applies for such adjustment within two years after the date of the enactment of this Act [Dec. 22, 1987].'}\)

\(\text{‘(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;'}\)

\(\text{‘(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;'}\)

\(\text{‘(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien’s period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and'}\)

\(\text{‘(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act [8 U.S.C. 1255a(a)(4)].'}\)

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

\(\text{‘(b) **STATUS AND ADJUSTMENT OF STATUS**—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act [8 U.S.C. 1255a] shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.''}

**PROCEDURES FOR PROPERTY ACQUISITION OR LEASING**

Pub. L. 99–603, title II, §201(c)(1), Nov. 6, 1986, 100 Stat. 3403, provided that notwithstanding Federal Property and Administrative Services Act of 1949 [see chapters 1 to 13 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], the Attorney General was authorized for period of up to two years after effective date of legalization program, to expend from appropriation provided for administration and enforcement of this chapter, such amounts necessary for leasing or acquisition of property in fulfillment of section 201 of Pub. L. 99–603, which enacted this section and amended sections 602, 672, and 673 of Title 42, The Public Health and Welfare.

**USE OF RETIRED FEDERAL EMPLOYEES**

Pub. L. 99–603, title II, §201(c)(2), Nov. 6, 1986, 100 Stat. 3403, as amended by Pub. L. 100–525, §2(h)(2), Oct. 24, 1988, 102 Stat. 2612, provided that: “Notwithstanding any other provision of law, the retired or former member of the Armed Forces of the United States or the pay and annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not exceeding 18 months to perform duties in connection with the adjustment of status of aliens under this section [enacted in this section and amendment sections 602, 672, and 673 of Title 42, The Public Health and Welfare]. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.”

**CUBAN-HAITIAN ADJUSTMENT**

Pub. L. 99–603, title II, §202, Nov. 6, 1986, 100 Stat. 3404, as amended by Pub. L. 100–525, §2(h)(2), Oct. 24, 1988, 102 Stat. 2612, provided that the status of an alien who received an immigration designation as a Cuban/Haitian Entrant as of Nov. 6, 1986, or who was a national of Cuba or Haiti, who arrived in the United States before Jan. 1, 1982, could be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence if the alien applied for such adjustment within two years after Nov. 6, 1986, and met certain other eligibility requirements.

**STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS**


**APPLICATION OF CERTAIN STATE ASSISTANCE PROVISIONS**


**REPORTS ON LEGALIZATION PROGRAM**

Pub. L. 99–603, title IV, §404, Nov. 6, 1986, 100 Stat. 3442, provided that the President would transmit to Congress two reports on the legalization program established under this section, one describing the legalized aliens and the second on the impact on State and local government, employment, and social welfare and medical needs.

§1255b. Adjustment of status of certain nonimmigrants to that of persons admitted for permanent residence

Notwithstanding any other provision of law—

(a) Application

Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or (ii) or 101(a)(15)(G)(i) or (ii) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(A)(i), (ii), (G)(i), (ii)], who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) Record of admission

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien’s lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

(c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. The Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act [8 U.S.C. 1122] for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per cent in any fiscal year.

(d) Limitations

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.