EFFECT ON EXECUTIVE ORDER 12711


SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS


“(a) Designation.—

“(1) In general.—El Salvador is hereby designated under section 244(b) of the Immigration and Nationality Act [8 U.S.C. 1254a(b)], subject to the provisions of this section.

“(2) Period of designation.—Such designation shall take effect on the date of the enactment of this section [Nov. 29, 1990] and shall remain in effect until the end of the 18-month period beginning January 1, 1991.

“(b) Aliens Eligible.—

“(1) in general.—In applying section 244 of the Immigration and Nationality Act [8 U.S.C. 1254a] pursuant to the designation under this section, subject to section 244(c)(3) of such Act, an alien who is a national of El Salvador meets the requirements of section 244(c)(1) of such Act only if—

“(A) the alien has been continuously physically present in the United States since September 19, 1990;

“(B) the alien is admissible as an immigrant, except as otherwise provided under section 244(c)(2)(A) of such Act, and is not inadmissible for temporary protected status under section 244(c)(2)(B) of such Act; and

“(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending October 31, 1991.

“(c) Registration Fee.—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an ‘employment authorization’ endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees collected shall be credited to the appropriation to be used in carrying out this section.

“(d) Application of Certain Provisions.—

“(1) In general.—Except as provided in this subsection, the provisions of section 244 of the Immigration and Nationality Act [8 U.S.C. 1254a] (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under other sections.

“(2) Provisions Not Applicable.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (l) of such section 244 shall not apply under this section.

“(e) 6-Month Period of Registration and Work Authorization.—Notwithstanding section 244(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244(c)(3)(C) of such Act under this section, ‘semiannually, at the end of each 6-month period’ shall be substituted for ‘annually, at the end of each 12-month period’ and, notwithstanding section 244(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

“(f) Reentry Permitted After Departure for Emergency Circumstances.—In applying section 244(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

“(g) Enforcement of Requirement to Depart at Time of Termination of Designation.—

“(1) Show Cause Order at Time of Final Registration.—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244(b) of the Immigration and Nationality Act [8 U.S.C. 1254a], the Service shall cancel such orders.

“(2) Sanction for Failure to Appear.—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 240b(5) of the Immigration and Nationality Act [8 U.S.C. 1229a(b)(5)] (inserted by section 354(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.”

§1254b. Collection of fees under temporary protected status program

(a) In addition to collection of registration fees described in section 1254a(c)(1)(B) of this title, fees for fingerprinting services, biometric services, and other necessary services may be collected when administering the program described in section 1254a of this title.

(b) Subsection (a) shall be construed to apply for fiscal year 1998 and each fiscal year thereafter.

Editorial Notes

Codification

This section was enacted as part of the Department of Homeland Security Appropriations Act, 2010, and not as part of the Immigration and Nationality Act which comprises this chapter.

§1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence

(a) Status as person admitted for permanent residence on application and eligibility for immigrant visa

The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification as a VAWA self-petitioner 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 (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Record of lawful admission for permanent residence; reduction of preference visas

Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien’s lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference visas authorized to be issued under sections 1152 and 1153 of this title within the class to which the alien is chargeable for the fiscal year then current.

(c) Alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa

Other than an alien having an approved petition for classification as a VAWA self-petitioner, subsection (a) shall not be applicable to (1) an alien crewman; (2) subject to subsection (k), an alien (other than an immediate relative as defined in section 1151(b) of this title or a special immigrant described in section 1101(a)(27)(H), (I), (J), or (K) of this title) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status or who is in unlawful immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States; (3) any alien admitted in transit without visa under section 1101(a)(15)(S) of this title; (4) an alien (other than an immediate relative as defined in section 1151(b) of this title) who was admitted as a nonimmigrant visitor without a visa under section 1182(l) of this title or section 1187 of this title; (5) an alien who was admitted as a nonimmigrant described in section 1101(a)(27)(L) of this title; (6) an alien who is deportable under section 1227(a)(4)(B) of this title; (7) any alien who seeks adjustment of status to that of an immigrant under section 1153(b) of this title and is not in a lawful nonimmigrant status; or (8) any alien who was employed while the alien was an unauthorized alien, as defined in section 1324a(h)(3) of this title, or who has otherwise violated the terms of a nonimmigrant visa.

(d) Alien admitted for permanent residence on conditional basis; fiancee or fiance of citizen

The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 1186a of this title except to that of an alien lawfully admitted to the United States on a conditional basis under section 1186a of this title as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the alien’s parent) to the citizen who filed the petition to accord that alien’s nonimmigrant status under section 1101(a)(15)(K) of this title.

(e) Restriction on adjustment of status based on marriages entered while in admissibility or deportation proceedings; bona fide marriage exception

(1) Except as provided in paragraph (3), an alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien’s status adjusted under subsection (a).

(2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien’s right to be admitted or remain in the United States.

(3) Paragraph (1) and section 1154(g) of this title shall not apply with respect to a marriage if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien’s admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 1154(a) of this title or subsection (d) or (p)2 of section 1184 of this title with respect to the alien spouse or alien son or daughter. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.

(f) Limitation on adjustment of status

The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 1186b of this title.

(g) Special immigrants

In applying this section to a special immigrant described in section 1101(a)(27)(K) of this title, such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States.

(h) Application with respect to special immigrants

In applying this section to a special immigrant described in section 1101(a)(27)(J) of this title—

(1) such an immigrant shall be deemed, for purposes of subsection (a), to have been paroled into the United States; and

(2) in determining the alien’s admissibility as an immigrant—

(A) paragraphs (4), (5)(A), (6)(A), (6)(C), (6)(D), (7)(A), and (9)(B) of section 1182(a) of this title shall not apply; and

1See in original. The comma probably should be a semicolon.

2See References in Text note below.
(B) the Attorney General may waive other paragraphs of section 1182(a) of this title (other than paragraphs (2)(A), (2)(B), (2)(C) (except for so much of such paragraph as related to a single offense of simple possession of 20 grams or less of marijuana), (3)(A), (3)(B), (3)(C), and (3)(E)) in the case of individual aliens for humanitarian purposes, family unity, or when it is otherwise in the public interest.

The relationship between an alien and the alien’s natural parents or prior adoptive parents shall not be considered a factor in making a waiver under paragraph (2)(B). Nothing in this subsection or section 1101(a)(27)(J) of this title shall be construed as authorizing an alien to apply for admission or be admitted to the United States in order to obtain special immigrant status described in such section.

(i) Adjustment in status of certain aliens physically present in United States

(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States—

(A) who—
   (i) entered the United States without inspection; or
   (ii) is within one of the classes enumerated in subsection (c) of this section;

(B) who is the beneficiary (including a spouse or child of the principal alien, if eligible to receive a visa under section 1153(d) of this title) of—
   (i) a petition for classification under section 1154 of this title that was filed with the Attorney General on or before April 30, 2001; or
   (ii) an application for a labor certification under section 1182(a)(5)(A) of this title that was filed pursuant to the regulations of the Secretary of Labor on or before such date; and

(C) who, in the case of a beneficiary of a petition for classification, or an application for labor certification, described in subparagraph (B) that was filed after January 14, 1996, is physically present in the United States on December 21, 2000;

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a sum equaling $1,000 as of the date of receipt of the application, but such sum shall not be required from a child under the age of seventeen, or an alien who is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 1153(d) of this title or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

(i) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 1153(d) of this title or section 202 of the Immigration Reform and Control Act of 1986;

(ii) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

(iii) applied for benefits under section 301(a) of the Immigration Act of 1990. The sum specified herein shall be in addition to the fee normally required for the processing of an application under this section.

(2) Upon receipt of such an application and the sum hereby required, the Attorney General may adjust the status of the alien to that of an alien lawfully admitted for permanent residence if—

(A) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

(B) an immigrant visa is immediately available to the alien at the time the application is filed.

(3)(A) The portion of each application fee (not to exceed $200) that the Attorney General determines is required to process an application under this section and is remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in subsections (a), (b), and (c) of section 1356 of this title.

(B) Any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Breached Bond/ Detention Fund established under section 1356(r) of this title, except that in the case of fees attributable to applications for a beneficiary with respect to whom a petition for classification, or an application for labor certification, described in paragraph (1)(B) was filed after January 14, 1996, one-half of such remaining portion shall be deposited by the Attorney General into the Immigration Examinations Fee Account established under section 1356(m) of this title.

(j) Adjustment to permanent resident status

(1) If, in the opinion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 1101(a)(15)(S)(i) of this title has supplied information described in subclause (I) of such section; and

(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title.

(2) If, in the sole discretion of the Attorney General—

(A) a nonimmigrant admitted into the United States under section 1101(a)(15)(S)(ii) of this title has supplied information described in subclause (I) of such section, and

(B) the provision of such information has substantially contributed to—

(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

(ii) the success of an authorized criminal investigation of, or the prosecution of, an in-
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shall record the alien's lawful admission for per-
under paragraph (1) or (2), the Attorney General
1182(a)(3)(E) of this title.
if the alien is not described in section
alien lawfully admitted for permanent residence
if admitted under such section) to that of an
ried sons and daughters, and parents of the alien
the alien (and the spouse, married and unmar-
in section 1151(d) and 1153(b)(4) of this title for the fiscal year then current.
(k) Inapplicability of certain provisions for cer-
An alien who is eligible to receive an immi-
under sections 1153(b) of this title or, in the case of an alien who is an immigrant described in section
1101(a)(27)(C) of this title, under section
1101(a)(15)(T)(i)(I) of this title.
(1) If, in the opinion of the Secretary of Home-
security, in consultation with the Attor-
any reasonable request for assistance in the
investigation or prosecution of acts of trafficking;
and the Secretary of State shall reduce by one
the status of the alien (and any person admitted
under section (c)(2), (c)(7), and (c)(8), if—
(1) the alien, on the date of filing an applica-
tion for adjustment of status, is present in the
United States pursuant to a lawful admission;
(2) the alien, subsequent to such lawful ad-
mission has not, for an aggregate period ex-
ceeding 180 days—
(A) failed to maintain, continuously, a
lawful status;
(B) engaged in unauthorized employment; or
(C) otherwise violated the terms and con-
ditions of the alien's admission.
(l) Adjustment of status for victims of trafficking
(1) If, in the opinion of the Secretary of Home-
land Security, or in the case of subparagraph
(C)(i), in the opinion of the Secretary of Home-
land Security, in consultation with the Attor-
ney General, as appropriate\(^3\) a nonimmigrant
admitted into the United States under section
1101(a)(15)(T)(i) of this title—
(A) has been physically present in the United
States for a continuous period of at least 3
years since the date of admission as a non-
immigrant under section 1101(a)(15)(T)(i) of
this title, or has been physically present in the
United States for a continuous period during the
investigation or prosecution of acts of trafficking and that, in the opinion of the At-
torney General, the investigation or prosecu-
tion is complete, whichever period of time is
less;
(B) subject to paragraph (6), has, throughout
such period, been a person of good moral char-
acter; and
(C)(i) has, during such period, complied with
any reasonable request for assistance in the
investigation or prosecution of acts of traf-
icking;
(ii) the alien\(^4\) would suffer extreme hardship
involving unusual and severe harm upon re-
moval from the United States; or
(iii) was younger than 18 years of age at the
time of the victimization qualifying the alien
for relief under section 1101(a)(15)(T) of this
title.\(^5\)
the Secretary of Homeland Security may adjust
the status of the alien (and any person admitted
under section 1101(a)(15)(T)(ii) of this title as the
spouse, parent, sibling, or child of the alien) to
that of an alien lawfully admitted for per-
manent residence.
(2) Paragraph (1) shall not apply to an alien
admitted under section 1101(a)(15)(T) of this
title who is inadmissible to the United States by rea-
son of a ground that has not been waived under
section 1182 of this title, except that, if the Sec-
cretary of Homeland Security considers it to be
in the national interest to do so, the Secretary
of Homeland Security, in the Attorney Gen-
eral's\(^6\) discretion, may waive the application of—
(A) paragraphs (1) and (4) of section 1182(a) of
this title; and
(B) any other provision of such section (ex-
cluding paragraphs (3), (10)(C), and (10)(E)).\(^7\) if
the activities rendering the alien inadmissible
under the provision were caused by, or were
incident to, the victimization described in sec-
ction 1101(a)(15)(T)(i)(I) of this title.
(3) An alien shall be considered to have failed
to maintain continuous physical presence in the
United States under paragraph (1)(A) if the alien
has departed from the United States for any pe-
riod in excess of 90 days or for any periods in the
aggregate exceeding 180 days, unless—
(A) the absence was necessary to assist in the
investigation or prosecution described in para-
graph (1)(A); or
(B) an official involved in the investigation or
prosecution certifies that the absence was
otherwise justified.
(4)(A) The total number of aliens whose status
may be adjusted under paragraph (1) during any
fiscal year may not exceed 5,000.
(B) The numerical limitation of subparagraph
(A) shall only apply to principal aliens and not
to the spouses, sons, daughters, siblings, or par-
ents of such aliens.
(5) Upon the approval of adjustment of status
under paragraph (1), the Secretary of Homeland
Security shall record the alien's lawful admis-
sion for permanent residence as of the date of
such approval.
(6) For purposes of paragraph (1)(B), the Sec-
cretary of Homeland Security may waive consid-
eration of a disqualification from good moral
character with respect to an alien if the dis-
qualification was caused by, or incident to, the
trafficking described in section
1101(a)(15)(T)(i)(I) of this title.
(7) The Secretary of Homeland Security shall
permit aliens to apply for a waiver of any fees

\(^3\) So in original. The period probably should be a comma.
\(^4\) So in original. The words "the alien" probably should not ap-
pear.
\(^5\) So in original. The period probably should be a comma.
\(^6\) So in original. Probably should be "Secretary's".
\(^7\) So in original. Probably should be "(10)(E)".
associated with filing an application for relief through final adjudication of the adjustment of status for a VAWA self-petitioner and for relief under sections 1101(a)(15)(T), 1101(a)(15)(U), 1105a, 1229b(b)(2), and 1254a(a)(3) of this title (as in effect on March 31, 1997).

(m) Adjustment of status for victims of crimes against women

(1) The Secretary of Homeland Security may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 1101(a)(15)(U) of this title to that of an alien lawfully admitted for permanent residence if the alien is not described in section 1182(a)(3)(E) of this title, unless the Secretary determines based on affirmative evidence that the alien unreasonably refused to provide assistance to a Federal law enforcement official, State or local prosecutor, State or local judge, or other State or local authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(ii) of this title.

(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 1101(a)(15)(U)(i) of this title the Secretary of Homeland Security may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of an alien child, a parent who did not receive a nonimmigrant visa under section 1101(a)(15)(U)(ii) of this title if the Secretary considers the grant of such status or visa necessary to avoid extreme hardship.

(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Secretary of Homeland Security shall consult with the Attorney General, as appropriate, in making a determination under paragraph (1) whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a Federal law enforcement official, Federal prosecutor, Federal judge, or other Federal authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(ii) of this title.

(B) Nothing in paragraph (1)(B) may be construed to prevent the Secretary from consulting with the Attorney General in making a determination whether affirmative evidence demonstrates that the alien unreasonably refused to provide assistance to a State or local law enforcement official, State or local prosecutor, State or local judge, or other State or local authority investigating or prosecuting criminal activity described in section 1101(a)(15)(U)(ii) of this title.


Editorial Notes

Cross Reference Tables for Section

References in Text


Section 301 of the Immigration Act of 1990, referred to in subsec. (i)(1)(i), is section 301 of Pub. L. 100–699, which is set out as a note under section 1255a of this title.

Amendments

2008—Subsec. (b)(3)(A). Pub. L. 110–457, §235(d)(9), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "paragraphs (4), (5)(A), and (7)(A) of section 1182(a) of this title shall not apply, and".

Subsec. (l)(1). Pub. L. 110–457, §201(d)(1)(C)(ii), which directed amendment of subpar. (C)(ii) by striking out "... or in the case of subparagraph (C)(i), the Attorney General, as appropriate", was executed by striking out "... or in the case of subparagraph (C)(i), the Attorney General,...", before "may adopt" in concluding provisions of par. (1), to reflect the probable intent of Congress.
(a) and (c) of this section, an alien physically present in the United States who—

(A) entered the United States without inspection; or

(B) is within one of the classes enumerated in subsection (c) of this section, may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence.

Subsec. (1)(3)(B). Pub. L. 105–119, §111(3), substituted “Breach Bond/Detention Fund established under section 1356(e) of this title” for “Immigration Detention Account established under section 1356(e) of this title”.


Subsec. (c)(7), (8). Pub. L. 104–208, §375, added clss. (7) and (8).

Subsec. (e)(2). Pub. L. 104–208, §308(f)(2)(C), substituted “be admitted” for “enter”.


Subsec. (1). Pub. L. 104–208, §871(a)(4)(A), redesignated subsec. (i), relating to adjustment to permanent resident status, as (j).

Subsec. (1)(1). Pub. L. 104–208, §378(a)(1), substituted “$1,000” for “five times the fee required for the processing of applications under this section”.

Subsec. (1)(3). Pub. L. 104–208, §378(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Sums remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in sections 1356(m), (n), and (o) of this title.”

Subsec. (j). Pub. L. 104–208, §871(a)(4)(A), redesignated subsec. (i), relating to adjustment to permanent resident status, as (j).

Subsec. (j)(3). Pub. L. 104–208, §871(a)(5), substituted paragraph (1) or (2) for paragraphs (1) or (2).


Subsec. (1). Pub. L. 103–322, §130003(c)(1), added subsec. (i) relating to adjustment to permanent resident status.

Pub. L. 103–317, §506(b), added subsec. (i) relating to adjustment in status of certain aliens physically present in United States.

1991—Subsec. (b). Pub. L. 102–232, §302(e)(7), substituted sections 1152 and 1153 for “sections 1151(a)” and “for the fiscal year then current” for “for the succeeding fiscal year”.


Subsec. (e)(3). Pub. L. 102–232, §308(a), substituted “section 1154(f)” for “section 1154(h)”.

Subsec. (g). Pub. L. 102–110, §2(c)(2), added subsec. (g).


1990—Subsec. (b). Pub. L. 101–619, §162(e)(3), struck out “or nonpreference” after “number of the preference” and substituted “1151(a)” for “1152(e) or 1153(a)” and “succeeding fiscal year” for “fiscal year then current”.


1986—Subsec. (c). Pub. L. 99–639, §5(a)(1), substituted “Subsection (a) of this section” for “The provisions of this section”.

Subsec. (c)(2). Pub. L. 99–639, §137, inserted “or who is not in legal immigration status on the date of filing the application for adjustment or who has failed (other than through no fault of his own for technical reasons) to maintain continuously a legal status since entry into the United States”.


Subsec. (d). Pub. L. 99–639, §3(b), as amended by Pub. L. 100–525, §7(b), inserted “The Attorney General may not adjust, under subsection (a), the status of a nonimmigrant alien described in section 1101(a)(15)(K) of this title (relating to an alien fiancee or fiance or the minor child of such alien) except to that of an alien lawfully admitted to the United States on a conditional basis under section 1186a of this title as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien’s nonimmigrant status under section 1101(a)(15)(K) of this title”.

Pub. L. 99–639, §2(e), added subsec. (d).


1981—Subsec. (c)(2). Pub. L. 97–116 inserted “or a special immigrant described in section 1101(a)(27)(H) of this title” after “section 1151(b) of this title”.

1976—Subsec. (a). Pub. L. 94–571 struck out “, other than alien crewman,” after “status of an alien” and substituted “filed” for “approved”.

Subsec. (b). Pub. L. 94–571 inserted reference to section 1152(e) of this title and struck out comma after “chargeable”.

Subsec. (c). Pub. L. 94–571 substituted provision making the section inapplicable to alien crewmen, aliens continuing or accepting unauthorized employment, and aliens admitted in transit without visa for provision making the section inapplicable to natives of contiguous country or adjacent island.

1965—Subsec. (b). Pub. L. 89–236, §13(a), struck out reference to quota area to which the alien is chargeable under section 1152 of this title and substituted reference to number of preference or nonpreference visas authorized to be issued under section 1153(a) of this title within the class to which the alien is chargeable.

Subsec. (c). Pub. L. 89–236, §13(b), substituted “any country of the Western Hemisphere” for “any country contiguous to the United States”.

1960—Subsec. (a). Pub. L. 86–648 substituted “alien, other than an alien crewman, who was inspected and admitted or paroled into the United States” for “alien who was admitted to the United States as a bona fide nonimmigrant”, struck out former cl. (3) which read “an immigrant visa was immediately available to him at the time of his application”, redesignated cl. (4) as (3), and struck out concluding sentence which read as follows: “A quota immigrant visa shall be considered immediately available for the purposes of this subsection only if the portion of the quota to which the alien is chargeable is undersubscribed by applicants registered on a consular waiting list.”

1958—Pub. L. 65–700 among other changes, substituted provisions allowing adjustment of status of alien who was admitted as a bona fide nonimmigrant to that of an alien lawfully admitted for permanent residence, for provisions allowing adjustment of status of alien who was lawfully admitted as a bona fide nonimmigrant and continued to maintain that status, to that of a permanent resident either as a quota immigrant or as a nonquota immigrant claiming nonquota status as the spouse or child of a citizen under certain specified conditions, by striking out provision terminating non-
immigrant quota status of alien who files application for adjustment of status, and by adding subsec. (c).

Statutory Notes and Related Subsidiaries

Effective Date of 2008 Amendment

Effective Date of 2000 Amendments
Pub. L. 106–554, §1(a)(4) [div. B, title XV, §1506], Dec. 21, 2000, 114 Stat. 2763, 2763A–528, provided that: "This title [amending this section, enacting provisions set out as notes under this section and section 1101 of this title] shall take effect as if included in the enactment of the Legal Immigration Family Equity Act [see Short Title of 2000 Amendments note set out under section 1101 of this title]."

Amendment by section 1(a)(2) [title XI, §1102(c), (d)(2)] of Pub. L. 106–554 effective Dec. 21, 2000, and applicable to an alien who is the beneficiary of a classification petition filed under section 1154 of this title on or before Dec. 21, 2000, see section 1(a)(2) [title XI, §1100(b)] of Pub. L. 106–554, set out as a note under section 1101 of this title.

Amendment by section 1(a)(2) [title XI, §1103(c)(3)] of Pub. L. 106–554 effective Dec. 21, 2000, and applicable to an alien who is the beneficiary of a classification petition filed under section 1154 of this title before, on, or after Dec. 21, 2000, see section 1(a)(2) [title XI, §1103(d)] of Pub. L. 106–554, set out as a note under section 1101 of this title.


Effective Date of 1996 Amendments
Amendment by section 308(f)(1)(O), (2)(C), (g)(10)(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, §376(c), Sept. 30, 1996, 110 Stat. 3009–649, provided that: "The amendments made by this section [amending this section and section 1356 of this title] shall apply to applications made on or after the end of the 90-day period beginning on the date of the enactment of this Act [Sept. 30, 1996]."


Amendment by Pub. L. 104–132 effective Apr. 24, 1996, and applicable to applications filed before, on, or after such date if final action not yet taken on them before such date see section 415(g) of Pub. L. 104–132, set out as a note under section 1253 of this title.

Effective Date of 1994 Amendments


Effective Date of 1990 Amendment

Amendment by section 702(a) of Pub. L. 101–649 applicable to marriages entered into before, on, or after Nov. 29, 1990, see section 702(c) of Pub. L. 101–649, set out as a note under section 1101 of this title.

Effective Date of 1988 Amendment


Amendment by section 7(b) of Pub. L. 100–525 effective as if included in enactment of Immigration Marriage Fraud Amendments of 1986, Pub. L. 99–639, see section 7(d) of Pub. L. 100–525, set out as a note under section 1182 of this title.

Effective Date of 1986 Amendments
Pub. L. 99–639, §3(d)(2), Nov. 10, 1986, 100 Stat. 3542, provided that: "The amendments made by subsection (b) [amending this section] shall apply to adjustments occurring on or after the date of the enactment of this Act [Nov. 10, 1986]."

Amendment by section 5(a) of Pub. L. 99–639 applicable to marriages entered into on or after Nov. 10, 1986, see section 5(c) of Pub. L. 99–639, set out as a note under section 1104 of this title.

Amendment by section 117 of Pub. L. 99–639 applicable to applications for adjustment of status filed on or after Nov. 6, 1986, see section 2(f)(2) of Pub. L. 100–525, set out as an Effective Date of 1988 Amendment note above.

Effective Date of 1981 Amendment

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.

Liberal Refugee Immigration Fairness
"(a) Definitions.—In this section:

"(1) In general.—Except as otherwise specifically provided, any term used in this Act [probably should be "this section"] that is used in the immigration laws shall have the meaning given the term in the immigration laws.

"(2) Immigration laws.—The term ‘immigration laws’ has the meaning given in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

"(b) Adjustment of Status.—

"(1) In general.—Except as provided in paragraph (3), the Secretary shall adjust the status of an alien described in subsection (c) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for adjustment not later than 2 years after the date of the enactment of this Act [Dec. 20, 2019];

"(B) is otherwise eligible to receive an immigrant visa; and

"(C) subject to paragraph (2), is admissible to the United States for permanent residence.

"(2) Applicability of Grounds of Inadmissibility.—In determining the admissibility of an alien under paragraph (1)(C), the grounds of inadmissibility specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

"(3) Exceptions.—An alien shall not be eligible for adjustment of status under this subsection if the Secretary determines that the alien—

"(A) has been convicted of an aggravated felony;

"(B) has been convicted of two or more crimes involving moral turpitude (other than a purely political offense); or

"(C) has ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(4) Relationship of Application to Certain Orders.—

"(A) In general.—An alien present in the United States who has been subject to an order of exclusion, deportation, removal, or voluntary departure under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), may, notwithstanding such order, submit an application for adjustment of status under this subsection if the alien is otherwise eligible for adjustment of status under paragraph (1).

"(B) Separate Motion Not Required.—An alien described in subparagraph (A) shall not be required, as a condition of submitting or granting an application under this subsection, to file a separate motion to reopen, reconsider, or vacate an order described in subparagraph (A).

"(C) Effect of Decision by Secretary.—

"(i) Grant.—If the Secretary adjusts the status of an alien pursuant to an application under this subsection, the Secretary shall cancel any order described in subparagraph (A) to which the alien has been subject.

"(ii) Denial.—If the Secretary makes a final decision to deny such application, any such order shall be effective and enforceable to the same extent that such order would be effective and enforceable if the application had not been made.

"(5) Adjustment Eligible for Adjustment of Status.—

"(A) In general.—The benefits provided under subsection (b) shall apply to any alien who—

"(i) is a national of Liberia; and

"(ii) has been continuously present in the United States during the period beginning on November 29, 2014, and ending on the date on which the alien submits an application under subsection (b); or

"(B) is the spouse, child, or unmarried son or daughter of an alien described in paragraph (A)."
or restrict the powers, duties, function, or authority of the Secretary in the administration and enforcement of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other law relating to immigration, nationality, or naturalization.

‘(2) EFFECT OF ELIGIBILITY FOR ADJUSTMENT OF STATUS.—The eligibility of an alien to be lawfully admitted for permanent residence under this section shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.’

ADJUSTMENT OF STATUS FOR CERTAIN HAITIAN ORPHANS

Pub. L. 111–293, Dec. 9, 2010, 124 Stat. 3175, provided that:

‘‘SECTION 1. SHORT TITLE.

‘This Act may be cited as—

‘‘(1) the ‘Help Haitian Adoptees Immediately to Integrate Act of 2010’; or

‘‘(2) the ‘Help HAITI Act of 2010’.

‘‘SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN HAITIAN ORPHANS.

‘(a) In General.—The Secretary of Homeland Security may adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

‘(1) was inspected and granted parole into the United States pursuant to the humanitarian parole policy for certain Haitian orphans announced by the Secretary of Homeland Security on January 18, 2010, and suspended as to new applications on April 15, 2010;

‘(2) is physically present in the United States;

‘(3) is admissible to the United States as an immigrant, except as provided in subsection (c); and

‘(4) files an application for an adjustment of status under this section not later than 3 years after the date of the enactment of this Act [Dec. 21, 2010];

‘(b) NUMERICAL LIMITATION.—The number of aliens who are granted the status of an alien lawfully admitted for permanent residence under this section shall not exceed 1,000.

‘(c) GROUNDS OF INADMISSIBILITY.—Section 212(a)(7)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)(A)) shall not apply to an alien seeking permanent residence under this section.

‘(d) WINDOW OF VISA AVAILABILITY.—The Secretary of State shall not be required to reduce the number of immigrants authorized to be issued under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) for any alien granted the status of having been lawfully admitted for permanent residence under this section.

‘(e) ALIENS DEEMED TO MEET DEFINITION OF CHILD.—An unmarried alien described in subsection (a) who is under the age of 18 years shall be deemed to satisfy the requirements applicable to adopted children under section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) if—

‘(1) the alien obtained adjustment of status under this section; and

‘(2) a citizen of the United States adopted the alien prior to, on, or after the date of the decision granting such adjustment of status.

‘(f) NO IMMIGRATION BENEFITS FOR BIRTH PARENTS.—No birth parent of an alien who obtains adjustment of status under this section shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this section or the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

‘SEC. 3. COMPLIANCE WITH PAYGO.

‘The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010 [2 U.S.C. 931 et seq.], shall be determined by reference to the latest statement titled ‘Budgetary Effects of PAYGO Legislation’ for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.’

PERMITTING MOTION TO REOPEN

Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1505(a)(x2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–326, provided that: ‘‘Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)))), a national of Cuba or Nicaragua who has become eligible for adjustment of status under the Nicaraguan Adjustment and Central American Relief Act [see Short Title of 1997 Amendments note set out under section 1101 of this title] as a result of the amendments made by paragraph (1) [amending section 202 of Pub. L. 105–100, set out below], may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act [Dec. 21, 2000].’’

Pub. L. 106–554, § 1(a)(4) [div. B, title XV, § 1505(b)(x2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–327, provided that: ‘‘Notwithstanding any time and number limitations imposed by law on motions to reopen exclusion, removal, or deportation proceedings (except limitations premised on an alien’s conviction of an aggravated felony (as defined by section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)))), a national of Haiti who has become eligible for adjustment of status under the Haitian Refugee Immigrant Fairness Act of 1996 [see Short Title of 1998 Amendments note set out under section 1101 of this title] as a result of the amendments made by paragraph (1) [amending section 902 of section 101(b) of div. A of Pub. L. 105–277, set out below], may file one motion to reopen exclusion, deportation, or removal proceedings to apply for such adjustment under that Act. The scope of any proceeding reopened on this basis shall be limited to a determination of the alien’s eligibility for adjustment of status under that Act. All such motions shall be filed within 180 days of the date of the enactment of this Act [Dec. 21, 2000].’’

ADJUSTMENT OF STATUS FOR CERTAIN JEWISH SYRIAN NATIONALS

Pub. L. 106–378, Oct. 27, 2000, 114 Stat. 1442, provided for adjustment of status of asylee to lawful permanent resident of not more than 2,000 persons, who must be either (1) Jewish nationals of Syria, who arrived in the United States after Dec. 31, 1991, after being permitted by the Syrian Government to depart from Syria, and were physically present in the United States at the time of filing the application for adjustment of status, or (2) who were the spouse, child, or unmarried son or daughter of such an alien provided that any such eligible person either applied for such adjustment of status not later than 1 year after Oct. 27, 2000, or applied for adjustment of status under this chapter before Oct. 27, 2000, had been physically present in the United States for at least 1 year after being granted asylum; was not firmly resettled in any foreign country; and was admisible as an immigrant under this chapter at the time of examination for adjustment of such alien.

ADJUSTMENT OF STATUS OF CERTAIN HAITIAN NATIONALS

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of an alien described in subsection (b) shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment before April 1, 2000; and

(B) is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

(2) INAPPLICABILITY OF CERTAIN PROVISIONS.—In the case of an alien described in subsection (b), (C), or (D), who is applying for adjustment of status under this section—

(A) the provisions of section 241(a)(5) of the Immigration and Nationality Act [8 U.S.C. 1255(a)(5)] shall not apply; and

(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act [8 U.S.C. 1182(a)(9)].

In granting waivers under subparagraph (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a separation agreement to receive or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General makes a final decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who is a national of Haiti who—

(1) was present in the United States on December 31, 1995, who—

(A) filed for asylum before December 31, 1995, and

(B) was paroled into the United States prior to December 31, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(C) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act [8 U.S.C. 1101(b)(1)] at the time of arrival in the United States and on December 31, 1995, and who—

(i) arrived in the United States without parents in the United States and has remained without parents in the United States since such arrival;

(ii) became orphaned subsequent to arrival in the United States, or

(iii) was abandoned by parents or guardians prior to April 1, 1995, and has remained abandoned since such abandonment; and

(2) has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date on which the application is filed if the alien—

(a) is a national of Haiti;

(b) is the alien who is or was eligible for classification under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the individual described in subsection (a); and

(c) in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 31, 1995, and ending not earlier than the date on which the application is filed if the alien—

(i) arrived in the United States prior to April 1, 1995, after having been identified as having a credible fear of persecution, or paroled for emergent reasons or reasons deemed strictly in the public interest, or

(ii) was a child (as defined in the text above subparagraph (A) of section 101(b)(1) of the Immigration and Nationality Act [8 U.S.C. 1101(b)(1)] at the time of arrival in the United States and on December 31, 1995, and who—

(iii) 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) [8 U.S.C. 1154(a)(1)(J)];

(iv) if the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(v) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(c) STAY OF REMOVAL.—

(1) IN GENERAL.—The Attorney General shall provide by regulation for an alien who is subject to a final order of deportation or removal or who is paroled for a period of not more than 180 days, to seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], the Attorney General shall not order any alien to be removed from the United States, if the alien is in exclusion, deportation, or removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Attorney General has made a final determination to deny the application.

(3) WORK AUTHORIZATION.—The Attorney General may authorize an alien who has applied for adjustment of status under subsection (a), to engage in employment in the United States during the pendency of such application and may provide the alien with an employment authorization endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Attorney General shall authorize such employment.

(d) ADJUSTMENT OF STATUS FOR SPOUSES AND CHILDREN.—

(1) IN GENERAL.—The status of an alien shall be adjusted by the Attorney General to that of an alien lawfully admitted for permanent residence, if—

(A) the alien is a national of Haiti;

(B) the alien is the spouse, child, or unmarried son or daughter of an alien who is or was eligible for classification under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application is filed; and

(C) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and

(D) the alien is otherwise admissible to the United States for permanent residence, except that, in determining such admissibility, the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (6)(A), (7)(A), (9)(B)] shall not apply.

(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of establishing the period of continuous physical presence referred to in paragraph (1)(B), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any period or periods amounting in the aggregate to not more than 180 days.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Attorney General shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act [8 U.S.C. 1255]; or
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“(2) aliens subject to removal proceedings under section 240 of such Act [8 U.S.C. 1229a].

“(1) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether the status of any alien should be adjusted under this section is final and shall not be subject to review by any court.

“(2) RULES IN APPLYING CERTAIN PROVISIONS.—In the case of an alien described in subsection (b) or (d) who is applying for adjustment of status under this section—

“(A) the provisions of section 212(a)(5) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(5)] shall not apply; and

“(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraph (A) and (C) of section 212(a)(9) of such Act [8 U.S.C. 1182(a)(9)].

In granting waivers under subsection (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

“(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order. If the Attorney General grants the application, the Attorney General shall cancel the order. If the Attorney General renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

“(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

“(1) IN GENERAL.—The benefits provided by subsection (a) shall apply to any alien who is a national of Nicaragua or Cuba and who has been physically present in the United States for a continuous period, beginning not later than December 1, 1995, and ending not earlier than the date the application for adjustment under such subsection is filed, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods in the aggregate not exceeding 180 days.

“(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced not later than December 1, 1995, an alien—

“(A) shall demonstrate that the alien, prior to December 1, 1995—

“(i) applied to the Attorney General for asylum;

“(ii) was issued an order to show cause under section 242 or 242B of the Immigration and Nationality Act [8 U.S.C. 1252, former 1252b] (as in effect prior to April 1, 1997);

“(iii) was placed in exclusion proceedings under section 236 of such Act [8 U.S.C. 1229] (as so in effect);

“(iv) applied for adjustment of status under section 245 of such Act [8 U.S.C. 1255];

“(v) applied to the Attorney General for employment authorization;

“(vi) performed service, or engaged in a trade or business, within the United States which is evidenced by records maintained by the Commissioner of Social Security; or

“(vii) applied for any other benefit under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] by means of an application establishing the alien’s presence in the United States prior to December 1, 1995; or

“(B) shall make such other demonstration of physical presence as the Attorney General may provide for by regulation.

“(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

ADJUSTMENT OF STATUS OF CERTAIN NICARAGUANS AND CUBANS


‘‘(ii) period of applicability.—Subsection (i) shall not apply after October 1, 2003.

‘‘(B) the Attorney General may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act [8 U.S.C. 1182(a)(9)].

In granting waivers under subsection (B), the Attorney General shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).
''(1) IN GENERAL.—The Attorney General shall pro-
vide by regulation for an alien subject to a final order of
deportation or removal to seek a stay of such order based
on the filing of an application under subsection (a).

''(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding
any provision of the Immigration and Na-
tonality Act [8 U.S.C. 1101 et seq.], the Attorney
General shall not order any alien to be removed from
the United States, if the alien is in exclusion, de-
portation, or removal proceedings under any provision of
such Act and has applied for adjustment of status
under subsection (a), except where the Attorney Gen-
eral has rendered a final administrative determina-
tion to deny the alien employment in the United States during the pendency of
such Act and may provide the alien with an
employment authorized endorsement or other ap-
propriate document signifying authorization of em-
ployment except that if such application is pending for a period exceeding 180 days, and has not been de-
nied, the Attorney General shall authorize such em-
ployment.

''(3) WORK AUTHORIZATION.—The Attorney General
may authorize an alien who has applied for adjust-
ment of status under subsection (a) to engage in em-
ployment in the United States during the pendency of
such application and may provide the alien with an
'employment authorized' endorsement or other ap-
propriate document signifying authorization of em-
ployment, except that if such application is pending for a period exceeding 180 days, and has not been de-
nied, the Attorney General shall authorize such em-
loyment.

''(4) ADJUSTMENT OF STATUS FOR SPOUSES AND CHIL-
DREN.—

''(1) IN GENERAL.—The status of an alien shall be ad-
justed by the Attorney General to that of an alien
lawfully admitted for permanent residence, if—

''(A) the alien is a national of Nicaragua or Cuba;

''(B) the alien—

''(i) is the spouse, child, or unmarried son or
daughter of an alien whose status is adjusted to
that of an alien lawfully admitted for permanent
residence under subsection (a), except that in the
case of such an unmarried son or daughter, the
son or daughter shall be required to establish
that the son or daughter has been physically
present in the United States for a continuous pe-
riod beginning not later than December 1, 1995,
and ending not earlier than the date on which the
application for adjustment under this subsection
is filed; or

''(ii) was, at the time at which an alien filed for
adjustment under subsection (a), the spouse or
child of an alien whose status is adjusted, or was
eligible to adjust to that of an alien law-
fully admitted for permanent residence under
subsection (a), and the spouse, child, or child of
the spouse has been battered or subjected to ex-
trme cruelty by the alien that filed for adjust-
ment under subsection (a);

''(C) the alien applies for such adjustment and is
physically present in the United States on the date
the application is filed;

''(D) the alien is otherwise admissible to the
United States for permanent residence, except in
determining such admissibility the grounds for in-
admissibility specified in paragraphs (4), (5), (6)(A),
(7)(A), and (9)(B) of section 212(a) of the Immi-
(6)(A), (7)(A), (9)(B)] shall not apply; and

''(E) applies for such adjustment before April 1,
2000, or, in the case of an alien who qualifies under
subparagraph (B)(ii), applies for such adjustment
during the 18-month period beginning on the date
of enactment of the Violence Against Women and De-
partment of Justice Reauthorization Act of 2005
[Jan. 5, 2006].

''(2) PROOF OF CONTINUOUS PRESENCE.—For purposes of
establishing the period of continuous physical
presence referred to in paragraph (1)(B), an alien—

''(A) shall demonstrate that such period com-
enced not later than December 1, 1995, in a man-
ner consistent with subsection (b)(2); and

''(B) shall not be considered to have failed to
maintain continuous physical presence or reason of an
absence, or absences, from the United States for
any period in the aggregate not exceeding 180 days.

''(3) PROCEDURE.—In acting on an application under
this section with respect to a spouse or child who has
been battered or subjected to extreme cruelty, the
Attorney General shall apply section 204(a)(1)(J) [8

''(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The
Attorney General shall provide to applicants for adjust-
ment of status under subsection (a) the same right to, and procedures for, administrative review as are pro-
vided to—

''(1) applicants for adjustment of status under sec-
tion 245 of the Immigration and Nationality Act [8
U.S.C. 1255]; or

''(2) aliens subject to removal proceedings under
section 230 of such Act [8 U.S.C. 1229a].

''(f) LIMITATION ON JUDICIAL REVIEW.—A determina-
tion by the Attorney General as to whether the status
of any alien should be adjusted under this section is
final and shall not be subject to review by any court.

''(g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
When an alien is granted the status of having been law-
fully admitted for permanent residence pursuant to
this section, the Secretary of State shall not be re-
quired to reduce the number of immigrant visas au-
thorized to be issued under any provision of the Immi-
gration and Nationality Act [8 U.S.C. 1101 et seq.].

''(b) APPLICATION OF IMMIGRATION AND NATION-
ALITY ACT PROVISIONS.—Except as otherwise specifi-
cally 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. Noth-
ing contained in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, du-
ties, functions, or authority of the Attorney General in
the administration and enforcement of such Act or any
other law relating to immigration, nationality, or nat-
uralization. The fact that an alien may be eligible to be
granted the status of having been lawfully admitted for
permanent residence under this section shall not pre-
clude the alien from seeking such status under any other
provision of law for which the alien may be eligi-
bale.

Stat. 3060, provided that: ‘‘The amendment made by
subsection (b) (amending section 202(d)(5) of Pub. L.
105–100, set out above) shall take effect as if included in
the enactment of the Violence Against Women Act of
2000 (division B of Public Law 106–386; 114 Stat. 1491).’’]

ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND
HUNGARIAN PAROLES

Stat. 3099–709, provided that:

''(a) IN GENERAL.—The Attorney General shall adjust
the status of an alien described in subsection (b) to
that of an alien lawfully admitted for permanent resi-
dence if the alien—

''(1) applies for such adjustment;

''(2) has been physically present in the United
States for at least 1 year and is physically present in the
United States on the date the application for
such adjustment is filed;

''(3) is admissible to the United States as an immi-
grant, except as provided in subsection (c); and

''(4) pays a fee (determined by the Attorney
General) for the processing of such application.

''(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—
The benefits provided in subsection (a) shall only apply to
an alien who—

''(1) was a national of Poland or Hungary; and

''(2) was inspected and granted parole into the
United States during the period beginning on Novem-
ber 1, 1989, and ending on December 31, 1991, after
being denied refugee status.

''(c) WAIVER OF CERTAIN GROUNDS FOR INADMISS-
IBILITY.—The provisions of paragraphs (4), (5), and
(7)(A) of section 212(a) of the Immigration and Na-
tonality Act [8 U.S.C. 1182(a)(4), (5), (7)(A)] shall not apply to
adjustment of status under this section and the At-
torney General may waive any other provision of such
section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

“(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien’s admission as an alien lawfully admitted for permanent residence as of the date of the alien’s inspection and parole described in subsection (b)(2).

“(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].”

FINGERPRINT CHECKS

Pub. L. 103–317, title V, §506(d), Aug. 26, 1994, 108 Stat. 1766, provided that: “The Immigration and Naturalization Service shall conduct full fingerprint identification checks through the Federal Bureau of Investigation Service for all individuals over sixteen years of age adjusting immigration status in the United States pursuant to this section [amending this section and section 1182 of this title and enacting provisions set out as a note under section 1182 of this title].”

ADJUSTMENT OF STATUS OF CERTAIN NATIONALS OF PEOPLE’S REPUBLIC OF CHINA


“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.

“(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 [8 U.S.C. 1255] 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 [8 U.S.C. 1154(a)(1)] for classification under section 203(b)(3)(A)(i) of such Act [8 U.S.C. 1153(b)(3)(A)(i)].

“(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 [8 U.S.C. 1182(a), (e)] 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 [8 U.S.C. 1152(a)(2)] shall not apply.

“(5) Section 245(c) of such Act [8 U.S.C. 1255(c)] 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 [8 U.S.C. 1101 note] 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 [Oct. 9, 1992].

“(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 [8 U.S.C. 1152(a)(2)] 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 202(b)(3)(A)(i) of such Act [8 U.S.C. 1153(b)(3)(A)(i)] 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 202(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 [8 U.S.C. 1255] 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.”

ADJUSTMENT OF STATUS FOR CERTAIN H–1 NONIMMIGRANT NURSES


“(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section
101(a) of such Act [8 U.S.C. 1101(a)(15)(H)(i)] to perform services as a registered nurse, and
(2) who, for at least 3 years before the date of application for adjustment of status, or who is the
spouse or child of such an alien, unauthorized employment performed before the date of the enactment of the
immigration Act of 1990 [Nov. 29, 1990] shall not be taken into account in applying section 245(c)(2) of
the Immigration and Nationality Act and such an alien shall be considered as having continued to maintain
lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day
period beginning on the date the Attorney General promulgates regulations carrying out the amendments

(2) APPLICATION PERIOD. —The alien, and accompanying spouse and children, must apply for such
adjustment within a 5-year period beginning on the date the Attorney General promulgates regulations re-
quired under subsection (a).

(3) the alien had been physically present in the United States under this subsection, and
(4) the alien makes an application for such adjustment of status under section 101(a)(15)(H)(i) of such Act [8 U.S.C. 1101(a)(15)(H)(i)] to perform services as a registered nurse, but has failed
to maintain that status due to the expiration of the time limitation with respect to such status, or who is
the spouse or child of such an alien, unauthorized employment performed before the date of the enactment of the
immigration Act of 1990 [Nov. 29, 1990] shall not be taken into account in applying section 245(c)(2) of
the Immigration and Nationality Act and such an alien shall be considered as having continued to maintain
lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day
period beginning on the date the Attorney General promulgates regulations carrying out the amendments

(c) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS. —The definitions contained in the
Immigration and Nationality Act [8 U.S.C. 1101 et seq.] shall apply in the administration of this section. The
fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent
residence under this section shall not preclude the alien from seeking such status under any other prov-
sion of law for which the alien may be eligible.

(d) APPLICATION PERIOD. —The alien, and accompanying spouse and children, must apply for such
adjustment within a 5-year period beginning on the date the Attorney General promulgates regulations re-
quired under subsection (a).

(1) adjudicate applications for adjustment under
(2) was paroled into the United States from a displaced person camp administered by the United Na-
tions High Commissioner for Refugees in Thailand.

(2) was paroled into the United States from a dis-

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY. —The provisions of paragraphs (4), (5), and
(7)(A) and (9) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (7)(A), (9)] shall
not be applicable to any alien seeking admission to the United States under this subsection, and
notwithstanding [sic] any other provision of law, the Secretary of Homeland Security may waive 212(a)(1); 212(a)(6)(B), (C), and (F); and (D) with respect to such an alien in order to prevent extreme hardship to the alien or the alien’s spouse, parent, son or daughter, who is a citizen of the United States, as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General pro-

(s) DATE OF APPROVAL. —Upon the approval of such an application for adjustment of status, the Secretary of
Homeland Security shall create a record of the alien’s admission as a lawful permanent resident as of
the date of the alien’s inspection and parole described in subsection (b)(1), (b)(2) and (b)(3).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE. —When an alien is granted the status of having been law-
fully admitted for permanent residence under this section the Secretary of State shall not be required to re-
duce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(c) ADJUDICATION OF APPLICATIONS. —The Secretary of
Homeland Security shall—

(1) adjudicate applications for adjustment under this section, notwithstanding any limitation on the
number of adjustments under this section or any deadline for such applications that previously existed
in law or regulation; and

(2) not charge a fee in addition to any fee that previously was submitted with such application.

§ 1255

TITLE 8—ALIENS AND NATIONALITY

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"(a) in GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

"(3) is admitted to the United States as an immigrant, except as provided in subsection (c), and

"(4) pays a fee (determined by the Attorney General) of such application.

"(b) aliens ELIGIBLE FOR ADJUSTMENT OF STATUS.—

The benefits provided in subsection (a) shall only apply to an alien who—

"(1) was a national of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania, Vietnam, Laos, or Cambodia, and

"(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 2021, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(4), (5), (7)(A)] shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien’s admission as a lawful permanent resident as of the date of the alien’s inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.].

(f) DETERMINATION OF ELIGIBILITY.—The Attorney General shall determine the eligibility of any applicant for such adjustment of status who is a member of a class of persons eligible for such adjustment of status by section 203(c)(3) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 [22 U.S.C. 6633(c)] (Public Law 104-114) that a democratized government in Cuba is in power.

(g) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date.

(h) CUBAN REFUGEES: ADJUSTMENT OF STATUS.

Pub. L. 95-624, § 16, Nov. 9, 1978, 92 Stat. 3645, provided that: ‘‘The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.’’

22 USC 6633(c)
Against Women and Department of Justice Reauthorization Act of 2005) [Jan. 5, 2006], or for 2 years after the date of enactment of this Act [Nov. 2, 1966], whichever date is later.

“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 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:

“‘(c) Nothing contained in subsection (b) 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) 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 in the case 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

(a) 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), 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 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 154(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 shall be effective as if included in subtitle G [§40701 et seq.] of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1441, 1441–28) or as a parolee, or a date thirty months prior to the date of admission for permanent residence as of the date the alien originally entered 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.

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 154(a) of this title.