

107TH CONGRESS  
2D SESSION

# H. R. 4649

To adjust the immigration status of certain Haitian nationals.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2002

Mr. HASTINGS of Florida introduced the following bill; which was referred to  
the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Haitian  
nationals.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. ADJUSTMENT OF STATUS OF CERTAIN HAITIAN**  
4               **NATIONALS.**

5               (a) ADJUSTMENT OF STATUS.—

6               (1) IN GENERAL.—Notwithstanding section  
7       245(c) of the Immigration and Nationality Act, the  
8       status of any alien described in paragraph (2) shall  
9       be adjusted by the Attorney General to that of an  
10      alien lawfully admitted for permanent residence, if  
11      the alien—

1 (A) applies for such adjustment before  
2 April 1, 2005; and

3 (B) is otherwise eligible to receive an im-  
4 migrant visa and is otherwise admissible to the  
5 United States for permanent residence, except  
6 in determining such admissibility the grounds  
7 for inadmissibility specified in paragraphs (4),  
8 (5), (6)(A), and (7)(A) of section 212(a) of the  
9 Immigration and Nationality Act shall not  
10 apply.

11 (2) RELATIONSHIP OF APPLICATION TO CER-  
12 TAIN ORDERS.—An alien present in the United  
13 States who has been ordered excluded, deported, re-  
14 moved, or ordered to depart voluntarily, from the  
15 United States under any provision of the Immigra-  
16 tion and Nationality Act may, notwithstanding such  
17 order, apply for adjustment of status under para-  
18 graph (1). Such an alien may not be required, as a  
19 condition on submitting or granting such applica-  
20 tion, to file a motion to reopen, reconsider, or vacate  
21 such order. If the Attorney General grants the appli-  
22 cation, the Attorney General shall cancel the order.  
23 If the Attorney General renders a final administra-  
24 tive decision to deny the application, the order shall

1 be effective and enforceable to the same extent as if  
2 the application had not been made.

3 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
4 TUS.—The benefits provided by subsection (a) shall apply  
5 to any alien who is a national of Haiti—

6 (1) who was physically present in the United  
7 States on December 1, 1995; and

8 (2) has been physically present in the United  
9 States for at least 1 year and is physically present  
10 in the United States on the date the application for  
11 adjustment of status under this subsection is filed,  
12 except an alien shall not be considered to have failed  
13 to maintain continuous physical presence by reason  
14 of an absence, or absences, from the United States  
15 for any periods in the aggregate not exceeding 180  
16 days.

17 (c) STAY OF REMOVAL.—

18 (1) IN GENERAL.—The Attorney General shall  
19 provide by regulation for an alien subject to a final  
20 order of deportation, removal, or exclusion to seek a  
21 stay of such order based on the filing of an applica-  
22 tion under subsection (a).

23 (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
24 standing any provision of the Immigration and Na-  
25 tionality Act, the Attorney General shall not order

1       any alien to be removed from the United States, if  
2       the alien is in exclusion, deportation, or removal pro-  
3       ceedings under any provision of such Act and raises  
4       as a defense to such an order the eligibility of the  
5       alien to apply for adjustment of status under sub-  
6       section (a), except where the Attorney General has  
7       rendered a final administrative determination to  
8       deny the application.

9               (3) WORK AUTHORIZATION.—The Attorney  
10      General may authorize an alien who has applied for  
11      adjustment of status under subsection (a) to engage  
12      in employment in the United States during the  
13      pendency of such application and may provide the  
14      alien with an “employment authorized” endorsement  
15      or other appropriate document signifying authoriza-  
16      tion of employment, except that if such application  
17      is pending for a period exceeding 180 days, and has  
18      not been denied, the Attorney General shall author-  
19      ize such employment.

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

22               (1) IN GENERAL.—Notwithstanding section  
23      245(c) of the Immigration and Nationality Act, the  
24      status of an alien shall be adjusted by the Attorney

1 General to that of an alien lawfully admitted for per-  
2 manent residence, if—

3 (A) the alien is the spouse, child, or un-  
4 married son or daughter, of an alien whose sta-  
5 tus is adjusted to that of an alien lawfully ad-  
6 mitted for permanent residence under sub-  
7 section (a), except that in the case of such an  
8 unmarried son or daughter, the son or daughter  
9 shall be required to establish that they have  
10 been physically present in the United States for  
11 at least 1 year;

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

15 (C) the alien is otherwise eligible to receive  
16 an immigrant visa and is otherwise admissible  
17 to the United States for permanent residence,  
18 except in determining such admissibility the  
19 grounds for exclusion specified in paragraphs  
20 (4), (5), (6)(A), and (7)(A) of section 212(a) of  
21 the Immigration and Nationality Act shall not  
22 apply.

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

1 an alien shall not be considered to have failed to  
2 maintain continuous physical presence by reason of  
3 an absence, or absences, from the United States for  
4 any periods in the aggregate not exceeding 180  
5 days.

6 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

7 The Attorney General shall provide to applicants for ad-  
8 justment of status under subsection (a) the same right to,  
9 and procedures for, administrative review as are provided  
10 to—

11 (1) applicants for adjustment of status under  
12 section 245 of the Immigration and Nationality Act;  
13 or

14 (2) aliens subject to removal proceedings under  
15 section 240 of such Act.

16 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
17 mination by the Attorney General as to whether the status  
18 of any alien should be adjusted under this subsection is  
19 final and shall not be subject to review by any court.

20 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

21 When an alien is granted the status of having been law-  
22 fully admitted for permanent residence pursuant to this  
23 section, the Secretary of State shall not be required to re-  
24 duce the number of immigrant visas authorized to be

1 issued under any provision of the Immigration and Na-  
2 tionality Act.

3 (h) APPLICATION OF IMMIGRATION AND NATION-  
4 ALITY ACT PROVISIONS.—Except as otherwise specifically  
5 provided in this section, the definitions contained in the  
6 Immigration and Nationality Act shall apply in the admin-  
7 istration of this section. Nothing contained in this section  
8 shall be held to repeal, amend, alter, modify, effect, or re-  
9 strict the powers, duties, functions, or authority of the At-  
10 torney General in the administration and enforcement of  
11 such Act or any other law relating to immigration, nation-  
12 ality, or naturalization. The fact that an alien may be eli-  
13 gible to be granted the status of having been lawfully ad-  
14 mitted for permanent residence under this section shall  
15 not preclude the alien from seeking such status under any  
16 other provision of law for which the alien may be eligible.

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