

the Act, provided that the individuals are in valid U nonimmigrant status at the time the benefit request is properly filed with USCIS and at the time the benefit request is adjudicated;

(20) Except as provided in paragraph (b) of this section, any aliens who are VAWA self-petitioners under section 212(a)(4)(E)(i) of the Act;

(21) Except as provided in paragraph (b) of this section, qualified aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. 1641(c), under section 212(a)(4)(E)(iii) of the Act;

(22) Applicants adjusting status who qualify for a benefit under section 1703 of the National Defense Authorization Act, Public Law 108–136, 117 Stat. 1392 (Nov. 24, 2003), 8 U.S.C. 1151 note (post-humous benefits to surviving spouses, children, and parents);

(23) American Indians born in Canada determined to fall under section 289 of the Act;

(24) Texas Band of Kickapoo Indians of the Kickapoo Tribe of Oklahoma, Public Law 97–429 (Jan. 8, 1983);

(25) Nationals of Vietnam, Cambodia, and Laos applying for adjustment of status under section 586 of Public Law 106–429 under 8 CFR 245.21;

(26) Polish and Hungarian Parolees who were paroled into the United States from November 1, 1989 to December 31, 1991, under section 646(b) of the IIRIRA, Public Law 104–208, Div. C, Title VI, Subtitle D (Sept. 30, 1996), 8 U.S.C. 1255 note;

(27) Applicants adjusting status who qualify for a benefit under Section 7611 of the National Defense Authorization Act for Fiscal Year 2020, *Public Law 116–92*, 113 Stat. 1198, 2309 (December 20, 2019) (Liberian Refugee Immigration Fairness), later extended by Section 901 of Division O, Title IX of the Consolidated Appropriations Act, 2021, *Public Law 116–260* (December 27, 2020) (Adjustment of Status for Liberian Nationals Extension);

(28) Certain Syrian nationals adjusting status under Public Law 106–378; and

(29) Any other categories of aliens exempt under any other law from the public charge ground of inadmissibility

provisions under section 212(a)(4) of the Act.

(b) *Limited Exemption.* Aliens described in paragraphs (a)(18) through (21) of this section must submit an Affidavit of Support Under Section 213A of the INA if they are applying for adjustment of status based on an employment-based petition that requires such an affidavit of support as described in section 212(a)(4)(D) of the Act.

(c) *Waivers.* A waiver for the public charge ground of inadmissibility may be authorized based on statutory or regulatory authority, for the following categories of aliens:

(1) Applicants for admission as nonimmigrants under 101(a)(15)(S) of the Act;

(2) Nonimmigrants admitted under section 101(a)(15)(S) of the Act applying for adjustment of status under section 245(j) of the Act (witnesses or informants); and

(3) Any other category of aliens who are eligible to receive a waiver of the public charge ground of inadmissibility.

[87 FR 55636, Sept. 9, 2022]

PART 213—ADMISSION OF ALIENS ON GIVING BOND OR CASH DEPOSIT

AUTHORITY: 8 U.S.C. 1103; 1183; 8 CFR part 2.

§ 213.1 Admission under bond or cash deposit.

(a) *Public charge bonds for adjustment of status applicants.* If, in the course of adjudicating an application for adjustment of status to that of a lawful permanent resident, USCIS determines that the alien is inadmissible only under section 212(a)(4) of the Act, and that the application for adjustment of status is otherwise approvable, USCIS may invite the alien to submit a public charge bond as a condition of approval of the adjustment of status application. Subject to the requirements of paragraph (c) of this section and 8 CFR 103.6, USCIS will set the bond amount and provide instructions for the submission of a public charge bond. Public charge bonds may be in the form of a

surety bond or an agreement covering cash deposits.

(b) *Public charge bonds requested by consular officers.* USCIS may accept a public charge bond before the issuance of an immigrant visa to the alien upon receipt of a request directly from a United States consular officer or upon presentation by an interested person of a notification from the consular officer requiring such a bond. The consular officer will set the amount of any such bond subject to paragraph (c) of this section and will provide instructions for the submission of a public charge bond. Upon acceptance of such a bond, USCIS will notify the U.S. consular officer who requested the bond, giving the date and place of acceptance and the amount of the bond.

(c) *Form and amount of public charge bonds.* All bonds and agreements covering cash deposits given as a condition of admission or adjustment of status of an alien under section 213 of the Act must be executed on a form designated by USCIS for that purpose and be in the sum set by USCIS under paragraph (a) of this section for adjustment of status applicants or the consular officer under paragraph (b) of this section for immigrant visa applicants but not less than \$1,000. USCIS will provide a receipt to the alien or an interested person acting on the alien's behalf on a form designated by USCIS for such purpose. All public charge bonds are subject to the procedures established in 8 CFR 103.6 relating to bond riders, acceptable sureties, cancellation of bonds, and breach of bonds.

[87 FR 55639, Sept. 9, 2022]

PART 213a—AFFIDAVITS OF SUPPORT ON BEHALF OF IMMIGRANTS

Sec.

213a.1 Definitions.

213a.2 Use of affidavit of support.

213a.3 Change of address.

213a.4 Actions for reimbursement, public notice, and congressional reports.

213a.5 Relationship of this part to other affidavits of support.

AUTHORITY: 8 U.S.C. 1183a; 8 CFR part 2.

SOURCE: 62 FR 54352, Oct. 20, 1997, unless otherwise noted.

§ 213a.1 Definitions.

As used in this part, the term:

Domicile means the place where a sponsor has his or her principal residence, as defined in section 101(a)(33) of the Act, with the intention to maintain that residence for the foreseeable future.

Federal poverty line means the level of income equal to the poverty guidelines as issued by the Secretary of Health and Human Services in accordance with 42 U.S.C. 9902 that is applicable to a household of the size involved. For purposes of considering the Form I-864, Affidavit of Support Under Section 213A of the Act, the Service and Consular Posts will use the most recent income-poverty guidelines published in the FEDERAL REGISTER by the Department of Health and Human Services. These guidelines are updated annually, and the Service and Consular Posts will begin to use updated guidelines on the first day of the second month after the date the guidelines are published in the FEDERAL REGISTER.

Household income means the income used to determine whether the sponsor meets the minimum income requirements under sections 213A(f)(1)(E), 213A(f)(3), or 213A(f)(5) of the Act. It includes the income of the sponsor, and of the sponsor's spouse and any other person included in determining the sponsor's household size, if the spouse or other person is at least 18 years old and has signed the form designated by USCIS for this purpose, on behalf of the sponsor and intending immigrants. The "household income" may not, however, include the income of an intending immigrant, unless the intending immigrant is either the sponsor's spouse or has the same principal residence as the sponsor and the preponderance of the evidence shows that the intending immigrant's income results from the intending immigrant's lawful employment in the United States or from some other lawful source that will continue to be available to the intending immigrant after he or she acquires permanent resident status. The prospect of employment in the United States that has not yet actually begun will not be sufficient to meet this requirement.